

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**FAO No.2134 of 2015 (O&M)
Date of decision: 02.04.2018**

Harjinder Kaur and others

....Appellants

Versus

Surjit Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Jaideep Verma, Advocate,
for the appellants.

Mr. Mohit Jaggi, Advocate,
for respondent Nos.1 and 2.

Ms. Vandana Malhotra, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Ropar (hereinafter referred to as 'the Tribunal') vide award dated 23.01.2015, on account of death of Sukhwinder Singh in a motor vehicular accident which took place on 22.07.2014. Appellant No.1 is widow, appellant Nos. 2 & 3 are children and appellant Nos.4 & 5 are parents of deceased Sukhwinder Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 22.07.2014, Sukhwinder Singh (since deceased) was going from Ropar towards Kharar side on a motorcycle bearing registration No. PB-65-N-9428. At about 2.10 P.M.,

when he reached near Toll Plaza near village Solakhian, a Tipper bearing registration No. PB-12-Q-1175 being driven by Surjit Singh-respondent No.1 in a rash and negligent manner, came and hit the motorcycle from behind, as a result of which, Sukhwinder Singh fell down and received multiple grievous injuries. He was taken to Civil Hospital, Rupnagar, from where he was referred to PGI, Chandigarh, but he succumbed to the injuries. With regard to the accident, FIR No.79 dated 23.07.2014 was registered against respondent No.1 at Police Station, Singh Bhagwantpur. Consequently, the claimant-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had taken place on account of rash and negligent driving of offending vehicle by respondent No.1, as a result of which Sukhwinder Singh has died and thus, returned the finding on issue no.1 in favour of the claimants. This finding was rightly given on the basis of the deposition of Jaspal Singh (PW-3), who was an eye witness of the accident and on whose statement, the FIR Ex.P1 was registered.

In the absence of any documentary proof, income of the deceased was assessed as Rs.8000/- per month i.e. Rs.96,000/- per annum, as that of a skilled worker. In this income, 30% addition was made on account of future prospects. On doing so, total annual income came to Rs.96,000/- + 28,800/- = Rs.1,24,800/-. Out of this, 1/4th amount was deducted towards personal expenses of the deceased, which came to Rs.93,600/- per annum (1,24,800 – 31,200). the deceased was 27 years of age at the time of accident/death. Therefore, multiplier of 17 was applied.

After applying the multiplier of 17, dependency of claimants (appellants) came to Rs.15,91,200/- (93,600 x 17). In addition to it, Rs.10,000/- were awarded on account of funeral expenses, Rs.5000/- as loss of consortium, Rs.5,000/- towards loss of estate and Rs.30,000/- as loss of care and guidance. Hence, appellant-claimants were found entitled to total compensation of Rs.16,41,200/- along with interest @ 9% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-appellant has preferred the present appeal.

REASSESSED COMPENSATION

I have heard learned counsel for the parties and perused the case file.

The fact of accident is admitted and proved. It stands established that the deceased has died as a result of the accident. Parties are not in dispute with respect to the findings given by the Tribunal on issue No.1 that the accident had taken place on account of rash and negligent driving of the offending vehicle by respondent No.1. In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed in view of the judgments passed by Hon'ble the Supreme Court in **Sarla Verma and others vs. Delhi Transport Corporation and another**, 2009 (3) RCR (Civil) Page 77 and **National Insurance Company Limited Vs. Pranay Sethi and others**, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017) as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.8000/- per month
(ii)	40% of (i) above to be added as future prospects	8000 + 3200 = Rs.11,200/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	11,200 – 2800 = Rs.8400/-

(iv)	Compensation after multiplier of 17 is applied	Rs.8400/- x 12 x 17 = Rs.17,13,600/-
(v)	Compensation under the conventional heads	Rs.70,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.17,83,600/-
(vii)	Enhanced amount of compensation	Rs.17,83,600 – 16,41,200 = Rs.1,42,400/-

The enhanced amount of compensation of **Rs.1,42,400/-** shall be payable within a period of two months from the date of receipt of certified copy of this order. The enhanced amount of compensation shall carry interest @ 7.5% per annum from the date of filing of the claim petition, till its realization, in view of the judgment of Hon'ble the Supreme Court in the case of “Shri Nagar Mal and others vs. The Oriental Insurance Company Ltd. and others, Civil Appeal No.448 of 2018 (decided on 19.01.2018). Remaining conditions of disbursal of amount shall remain unaltered.

Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

(RITU BAHRI)
JUDGE

02.04.2018
ajp

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No