

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

**FAO No.2432 of 2015
Date of decision: 10.05.2018**

Shamsher Kaur and another

....Appellants

Versus

Pritpal Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. S.S. Swaich, Advocate,
for the appellants.

Mr. Harsh Aggarwal, 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, Fatehgarh Sahib (hereinafter referred to as 'the Tribunal') vide award dated 16.12.2014 on account of death of Santokh Singh in a motor vehicular accident which took place on 27.05.2013. Appellant No.1 is widow and appellant No.2 is son of deceased Santokh Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 27.05.2013, Santokh Singh (since deceased), who was working as Peon in SYL Department, Sector 12, Chandigarh, after completing his work, was returning from his office on a scooter (Bajaj Chetak) bearing registration No. PB-27-B-2792. Kulwinder Singh son of Santokh Singh (claimant No.2) along with his brother-in-law Manjit Singh was also going towards his village. At about 5.30/5.45 P.M., when Santokh Singh reached near Labour Shed, Old River, near Municipal

driven by respondent No.2 in a rash and negligent manner, came and hit the scooter of Santokh Singh from conductor side, as a result of which, left rear tyre of the offending vehicle run over Santokh Singh. Santokh Singh died at the spot. With regard to the incident, FIR No. 81 dated 27.05.2013, under Sections 279/304-A IPC was registered at Police Station, City, Kharar against driver of offending vehicle. 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 the offending vehicle by its driver i.e. respondent No.2- Daljinder Singh and thus, returned finding on issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of Kulwinder Singh (CW-1) and Surjit Singh (CW-2), who was eye witnesses of the accident and on whose statement, FIR Ex.C1 was registered. Claimants have also proved on record copy of postmortem report Ex.C3, death certificate of Santokh Singh Ex.C4 etc.

Santokh Singh-deceased was posted as Peon in SYL Department, Sector 17, Chandigarh. The Tribunal has observed that as per the documents produced on record, he was getting salary of Rs.29,550/- per month. His annual salary was Rs.3,11,527/- (rounded of Rs.3,12,000/-). As per PAN card Ex.C6 and Identity card Ex.C5, date of birth of deceased was 01.01.1955. He would have attained superannuation at the age of 60 years. He died on 27.05.2013 and till the date of his superannuation i.e. 01.01.2015, dependency of claimants would be Rs.1,04,000/- per annum. Thereafter, the dependency of claimants was taken as Rs.5000/- per month.

Keeping in view the age of deceased, multiplier of 07 was applied by the Tribunal. Accordingly, the claimants were held entitled to compensation amounting to Rs.4,20,000/-, besides the dependency calculated above for the period when he would have remained in service getting salary amount to Rs.1,50,000/-. In addition to it, Rs.25,000/- were awarded on account of funeral expenses and Rs.1,00,000/- to claimant No.1 on account of loss of consortium. Hence, the claimants were found entitled to total compensation of Rs.6,95,000/- along with interest @ 7% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-appellants have 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 regard to the findings given by Tribunal on issue No.1 that the accident had taken place due to rash and negligent driving of 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.3,12,000/- per annum

(ii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	3,12,000 – 1,04,000 = Rs.2,08,000/- per annum i.e. Rs.17,333/- per month
(iii)	Dependency of claimants up to retirement i.e. 01.01.2015 (for 19 months)	Rs.17,333/- x 19 = Rs.3,29,327/-
Dependency after retirement		
(iv)	Income	Rs.8000/- per month i.e. Rs.96,000/- per annum
(v)	Compensation after multiplier of 7 is applied	96,000/- x 7 = Rs.6,72,000/-
(vi)	Compensation under the conventional heads	Rs.70,000/-
(vii)	TOTAL COMPENSATION AWARDED	Rs.10,71,327/- (3,29,327 + 6,72,000 + 70,000)
(viii)	Enhanced amount of compensation	Rs.10,71,327 – 6,95,000 = Rs.3,76,327/-

The enhanced amount of compensation of **Rs.3,76,327/-** 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 (arising out of SLP (C) No.26853 of 2016) 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

10.05.2018
ajp

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