

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

**FAO No.4128 of 2014 (O&M)
Date of decision: 19.01.2018**

Chinto Devi and others

....Appellants

Versus

Sanjeev Kumar and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Diwan S. Adlakha, Advocate,
for the appellants.

Mr. Ravi Malik, Advocate,
for respondent No.1-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, Yamuna Nagar at Jagadhri (hereinafter referred to as 'the Tribunal') vide award dated 01.11.2013 on account of death of Sanjeev Kumar in a motor vehicular accident which took place on 25.12.2011. Appellant Nos.1 & 2 are parents, whereas appellant Nos.3 to 4 are brother of deceased Sanjeev Kumar.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 25.12.2011, Sanjeev Kumar (since deceased) along with his cousin namely Anil Kumar was returning to his house from village Karera Khurd on a motorcycle bearing registration No. HRE-71-A-4753. The said motorcycle was being driven by Anil Kumar

reached near Jai Dayal Ply Factory on Jathlana-Yamuna Nagar road, a Tempo (Chhota Hathi) bearing registration No. HR-99-KH-8234 being driven by Sanjeev Kumar-respondent No.1 in a rash and negligent manner, came from the opposite side and struck against his motorcycle, as a result of which, Sanjeev Kumar (since deceased) fell down on the road and received serious injuries. Later on, he succumbed to the injuries suffered in the accident. With regard to the incident, FIR No. 113 dated 25.12.2011, under Sections 279/337/304-A IPC was registered against respondent No.1. 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 been caused on account of rash and negligent driving of offending vehicle i.e. Temp (Chhota Hathi) by its driver-respondent No.1 and returned finding on issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of Anil Kumar (PW-1), who was eye witnesses of the accident. Further the claimants have proved copy of FIR Ex.P1 and copy of report under Section 173 Cr.P.C. Ex.P5 and charge sheet Ex.P6.

In the absence of any documentary proof, income of the deceased was assessed as Rs.4200/- per month as that of a casual labourer, out of which, 50% amount was deducted towards his personal expenses, which came to be Rs.2100/- per month. The deceased was 27 years of age at the time of death/accident. The Tribunal has applied the multiplier of 11 keeping in view the age of his parents, who were 48 and 50 years old respectively. Accordingly, after applying the multiplier of 11, dependency

of claimants came to Rs.2,77,200/- (2100 x 12 x 11). In addition to it, Rs.20,000/- were awarded on account of transportation & funeral expenses. Hence, the claimants were found entitled to total compensation of Rs.2,97,000/- along with interest @ 7.5% 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. Finding of negligence has rightly been given by the Tribunal and it does not require any interference on that account. 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.5000/- per month
(ii)	40% of (i) above to be added as future prospects	5000 + 2000 = Rs.7000/-
(iii)	50% of (ii) above is deducted as personal expenses of the deceased	7000 – 3500 = Rs.3500/-
(iv)	Compensation after multiplier of 17 is applied	Rs.3500/- x 12 x 17 = Rs.7,14,000/-
(v)	Compensation under conventional heads	Rs.30,000/-

(vi)	TOTAL COMPENSATION AWARDED	Rs.7,44,000/-
(vii)	Enhanced amount of compensation	Rs.7,44,000 – 2,97,000= Rs.4,47,000/-

The enhanced amount of compensation of **Rs.4,47,000/-** 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 @ 9% 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 “*Kumari Kiran through her father Harinarayan vs. Sajjan Singh and others*”, 2015(1) SCC 539. 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

19.01.2018
ajp

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