

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

**FAO No.2573 of 2015
Date of decision: 07.05.2018**

Smt. Jagwati and others

....Appellants

Versus

Mubin and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. M.S. Tewatia, Advocate,
for the appellants.

Mr. R.K. Bashamboo, 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, Palwal (hereinafter referred to as 'the Tribunal') vide award dated 03.11.2014 on account of death of Hans Raj in a motor vehicular accident which took place on 05.03.2013. Appellant No.1 is widow and appellant Nos.2 to 4 are children of deceased Hans Raj.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 05.03.2013, Hans Raj (since deceased) and Ram Sharan were going from Palwal to Hodal on a motorcycle bearing registration No.HR-30-G-2492. At about 2.15 P.M., when they reached at Bus Stand of village Bamnikhera, in the meantime, a truck bearing registration No. HR-74-3441, being driven by respondent

the motorcycle, as a result of which, both the occupants of motorcycle received multiple, grievous injuries and Hans Raj died at the spot. With regard to the incident, FIR No.55 dated 05.03.2013, under Sections 279/337/304-A IPC was registered against respondent No.1 at Police Station, Sdar, Palwal. 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.1- Mubin. This finding was rightly given on the basis of deposition of Ram Sharan (PW-2), who was eye witnesses of the accident and on whose statement, FIR Ex.P3 was registered. Claimants have also proved on record copy of postmortem report of deceased Ex.P2.

Deceased-Hans Raj was employed as Security Supervisor with Dushyant Security Agency and as per salary certificate Ex.PW3/C, he was getting salary of Rs.10,793/- per month. In this income, 15% addition was made on account of future prospects, which came to Rs.1691/- per month. In this way, total income of deceased came to Rs.12,412/- per month i.e. Rs.1,48,944/- per annum, out of which, 1/4th amount was deducted towards his personal expenses. By doing so, remaining amount came to be Rs.1,11,798/- per annum. The deceased was 51 years of age at the time of death/accident. Accordingly, multiplier of 11 was applied. After applying the multiplier of 11, dependency of claimants came to Rs.12,29,778/- (1,11,798 x 11). In addition to it, Rs.10,000/- were awarded to claimant No.1 on account of loss of consortium and Rs.10,000/- as funeral expenses.

Hence, the claimants were found entitled to total compensation of Rs.12,49,778/- 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. 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.10,793/- per month
(ii)	15% of (i) above to be added as future prospects	10,793 + 1619 = Rs.12,412/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	12,412 – 3103 = Rs.9309/-
(iv)	Compensation after multiplier of 11 is applied	Rs.9309/- x 12 x 11 = Rs.12,28,788/-
(v)	Compensation under the conventional heads	Rs.70,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.12,98,788/-

(vii)	Enhanced amount of compensation	Rs.12,98,788 – 12,49,778 = Rs.49,010/-
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The enhanced amount of compensation of **Rs.49,010/-** 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

07.05.2018
ajp

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