

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

**CM No.20814-CII of 2013 in/and
FAO No.4873 of 2013
Date of decision: 01.03.2018**

Poonam alias Manju and others

....Appellants

Versus

Jasbir and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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

Mr. Sandeep Saini, Advocate,
for Mr. Vishal Goel, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

CM No.20814-CII of 2013

For the reasons mentioned in the application, same is allowed
and delay of 352 days in filing of the appeal is condoned.

FAO No.4873 of 2013

This appeal has been filed by the claimant-appellants seeking
enhancement of compensation awarded by Motor Accident Claims Tribunal,
Rewari (hereinafter referred to as 'the Tribunal') vide award dated
23.04.2012 on account of death of Jeet Singh in a motor vehicular accident
which took place on 22.12.2010. Appellant No.1 is widow, appellant Nos.2
to 4 are children and respondent Nos.4 & 5 are parents of deceased Jeet
Singh.

Brief facts of the case are that on 22.12.2010, Jeet Singh (since deceased) along with Suresh Chand was going from Rewari towards Banipur Chowk on a motorcycle bearing registration No.RJ-02-8-M-4310. When they reached near the turn of Police Station, Kasola, a Trola bearing registration No. HR-63-A-5159, being driven by Jasbir-respondent NO.1 in a rash and negligent manner, came from the side of Banipur Chowk and struck against the motorcycle, as a result of which, both the occupants of motorcycle fell down on the road. The offending trola turned turtle and they (Jeet Singh and Suresh Chand) came under the same. They received multiple grievous injuries and died on the way to hospital. With regard to the incident, FIR No.235 dated 22.12.2010, under Sections 279/304-A IPC was registered against respondent No.1 at Police Station, Kasola. 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- Jasbir. This finding was rightly given on the basis of deposition of Uttam Chand (PW-3), who was eye witnesses of the accident and on whose statement, FIR Ex.P2 was registered. Claimants have also proved on record copy of report under Section 173 Cr.P.C. Ex.P3 and charge sheet Ex.P1.

In the absence of any documentary proof, income of the deceased was assessed as Rs.4200/- per month, out of which, 1/4th amount was deducted towards his personal expenses. By doing so, remaining amount came to be Rs.3150/- per month i.e. Rs.37,800/- per annum. As per

postmortem report, deceased was 27 years of age at the time of death/accident. Accordingly, multiplier of 17 was applied. After applying the multiplier of 17, dependency of claimants came to Rs.6,42,600/- (3150/- x 12 x 17). In addition to it, Rs.5000/- were awarded on account of loss of estate, Rs.5000/- a funeral charges and Rs.5000/- to claimant No.1 as loss of consortium. Hence, the claimants were found entitled to total compensation of Rs.6,57,600/- along with interest @ 9% 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.5000/- per month
(ii)	40% of (i) above to be added as future prospects	5000 + 2000 = Rs.7000/-

(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	7000 – 1750 = Rs.5250/-
(iv)	Compensation after multiplier of 17 is applied	Rs.5250/- x 12 x 17 = Rs.10,71,000/-
(v)	Compensation under the conventional heads	Rs.70,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.11,41,000/-
(vii)	Enhanced amount of compensation	Rs.11,41,000 – 6,57,600 = Rs.4,83,400/-

The enhanced amount of compensation of **Rs.4,83,400/-** 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 (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

01.03.2018
ajp

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