

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

FAO No.283 of 2015 (O&M)

Date of decision: 18.01.2018

Narinderpal Kaur and another

....Appellants

Versus

Sewak Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ashok Jindal, Advocate,
for the appellants.

Mr. Nitish Garg, Advocate,
for respondent Nos. 1 and 2.

Mr. Paul S. Saini, 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, Bathinda (hereinafter referred to as 'the Tribunal') vide award dated 07.08.2014, on account of death of Kulwant Singh @ Jaspreet Singh @ Gaggi in a motor vehicular accident which took place on 27.06.2013. Appellants are parents of deceased Kulwant Singh @ Jaspreet Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 27.06.2013, at about 12.00 P.M., Kulwant Singh @ Jaspreet Singh @ Gaggi (since deceased) along with Lovpreet Singh was going from his village towards village Bhatti Wala via Bathinda on a motorcycle bearing registration No.PB-03-P-5667. Harmander Singh was following them on a separate motorcycle. When they

registration PB-03-U-4045 being driven by Sewak Singh-respondent NO.1 in a rash and negligent manner, came from the opposite side and struck against the motorcycle, as a result of which, Kulwant Singh and Lovpreet Singh fell on the road and received multiple injuries. Within two hours of the accident, Kulwant Singh succumbed to the injuries. With regard to the incident, FIR No.73 dated 27.06.2013, Ex.C1 was registered at Police Station, Cantt. Bathinda 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 taken place on account of rash and negligent driving of offending vehicle by respondent No.1, as a result of which Kulwant 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 Harmander Singh (CW-2), who was an eye witness of the accident and on whose statement, FIR Ex.C1 was registered. Further, the claimants have proved on record copy of charge sheet, Ex.C2 and postmortem report, Ex.C3.

In the absence of any documentary proof, notional income of the deceased was assessed as Rs.4500/- per month. Out of this, 50% amount was deducted towards personal expenses of the deceased. As per postmortem report Ex.C3, deceased was 21 years of age at the time of accident/death. He was a bachelor. After applying the multiplier of 18, dependency of claimants came to Rs.4,86,600/- (2250/- x 12 x 18). In addition to it, Rs.25,000/- were awarded on account of funeral expenses and Rs.5000/- towards loss of consortium. Hence, the claimants were found

entitled to total compensation of Rs.5,16,000/- 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. 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.4500/- per month
(ii)	40% of (i) above to be added as future prospects	4500 + 1800 = Rs.6300/-
(iii)	50% of (ii) above is deducted as personal expenses of the deceased	6300 – 3150 = Rs.3150/-
(iv)	Compensation after multiplier of 18 is applied	Rs.3150/- x 12 x 18 = Rs.6,80,400/-
(v)	Compensation under the conventional heads	Rs.30,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.7,10,400/-
(vii)	Enhanced amount of compensation	Rs.7,10,400 – 5,16,000 = Rs.1,94,400/-

The enhanced amount of compensation of **Rs.1,94,400/-** 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 @ 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

18.01.2018
ajp

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