

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

**FAO No.1860 of 2016 (O&M)
Date of decision: 16.04.2018**

Raj Rani alias Guddi Rani and others

....Appellants

Versus

Sohan Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Chandandeep Singh, Advocate,
for the appellants.

Mr. Nikhil Kumar Chopra, 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, Ludhiana (hereinafter referred to as 'the Tribunal') vide award dated 04.12.2015, on account of death of Jasbir Singh in a motor vehicular accident which took place on 20.11.2013. Appellant No.1 is widow, appellant Nos. 2 & 3 are children and appellant No. 4 is mother of deceased Jasbir Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 19.11.2013, Jasbir Singh (since deceased) along with his brothers Rama Nand, Mangat Ram and son Mohit Kumar had gone to Ambala (Haryana) in order to attend a marriage

function. After attending the marriage, they were coming back towards Khanna in Maruti Swift Car bearing registration No. PH-26-F-0829, which was being driven by Balvir Singh-respondent No.4. At about 1.00/1.30 A.M. on 20.11.2013, when they reached in front of Mayur Hotel, Rajpura, a Truck/Trailer bearing registration No. HR-55-G-6813 was lying parked in the middle of the road by its driver-respondent No.1 (Sohan Singh). Neither its head/rear lights were on nor there was any indication given. Due to this reason, driver Balvir Singh could not see the offending vehicle and struck his car against the same, as a result of which, Jasvir Singh died at the spot, whereas other occupants of the car also received grievous and multiple injuries. With regard to the accident, FIR No.293 dated 20.11.2013, under Sections 283/337/427/304-A IPC was registered against respondent No.1 at Police Station, Rajpura City. 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 Jasbir Singh has died and thus, returned the finding on issue no.1 in favour of the claimants. The Tribunal has further observed that respondent No.4 was also responsible for causing the accident, who has hit the truck from behind. This finding was rightly given on the basis of the deposition of Rama Nand (PW-2), who was an eye witnesses of the accident. Claimants have further proved on record copy of report under Section 173 Cr.P.C. Ex.P1, FIR Ex.P2, charge sheet Ex.P4 and postmortem report Ex.P5.

In the absence of any documentary proof, income of deceased

was assessed by the Tribunal as Rs.5000/- per month, out of which, Rs.1800/- were deducted towards his personal expenses. By doing so, remaining amount came to Rs.3200/- per month i.e. Rs.38,400/- per annum. The deceased was 42 years of age at the time of accident/death. Therefore, multiplier of 15 was applied. After applying the multiplier of 15, dependency of claimants (appellants) came to Rs.5,76,000/- (38,400 x 15). In addition to it, Rs.24,000/- were awarded towards funeral expenses, Rs.1,00,000/- as loss of consortium and Rs.1,00,000/- on account of loss of love and affection. Hence, appellant-claimants were found entitled to total compensation of Rs.8,00,000/- along with interest @ 7.5% per annum from the date of filing of the petition till realization. The Tribunal has further observed that since there was contributory negligence of the driver of truck and the car, respondent Nos.1 to 3 and respondent Nos.4 to 5 were liable to make payment of compensation in the ratio of 75:25. Accordingly, out of the total compensation of Rs.8,00,000/-, Rs.6,00,000/- were to be paid by respondent Nos. 1 to 3 and remaining amount of Rs.2,00,000/- was to be paid by respondent Nos.4 and 5. Feeling dissatisfied with the impugned award, the claimant-appellant has 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 respect to the findings given by the Tribunal on issue No.1 that the accident had taken place on account of rash and negligent driving of the offending vehicle(s). After going through the impugned

award, this Court is of the view that income of the deceased should have been assessed at Rs.6000/- per month as he was working as accountant with M/s Gill Traders, Sabzi Mandi, Amloh Road, Khanna. 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.6000/- per month
(ii)	25% of (i) above to be added as future prospects	6000 + 1500 = Rs.7500/-
(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	7500 – 2500 = Rs.5000/-
(iv)	Compensation after multiplier of 14 is applied (age 42 years)	Rs.5000/- x 12 x 14 = Rs.8,40,000/-
(v)	Compensation under the conventional heads	Rs.70,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.9,10,000/-
(vii)	Enhanced amount of compensation	Rs.9,10,000 – 8,00,000 = Rs.1,10,000/-

The enhanced amount of compensation of **Rs.1,10,000/-** 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 @ 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

(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

16.04.2018
ajp

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