

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

FAO No.2941 of 2015 (O&M)

Date of decision: 03.05.2018

Manjit Kaur & others

....Appellants

Versus

Ram Niwas @ Raju & others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Jaideep Verma, Advocate,
for the appellants.

RITU BAHRI J. (Oral)

As per Office report, fresh notice to respondent Nos.1 to 3 could not be issued for want of correct address.

At this stage, there is no need to serve respondent Nos.1 to 3 as liability to make payment of compensation is joint and several.

On the asking of the Court, Mr. S.S. Sidhu, Advocate, accepts notice on behalf of respondent No.4-Insurance Company.

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Ludhiana (hereinafter referred to as 'the Tribunal') vide award dated 26.02.2014, on account of death of Jasbir Singh in a motor vehicular accident which took place on 17.01.2012. Appellant No. 1 is widow, appellant Nos.2 & 3 are daughters and appellant Nos.4 & 5 are parents of deceased Jasbir Singh.

FACTS NOT IN DISPUTE

(since deceased) was going from Hero Cycle factory to Sherpur Chowk on his bicycle. His elder brother Tejinder Singh was also following him separately. When he reached near the cycle factory, a Truck bearing registration No. PB-13-W-9964 being driven by respondent No.1-Ram Niwas @ Raju in a rash and negligent manner, came and struck against the cycle of Jasbir Singh, as a result of which, he fell down and received grievous injuries. His bicycle was also damaged. He was taken to Apollo Hospital, where the doctors declared him 'brought dead.'. With regard to the accident, FIR No.11 dated 17.01.2012, under Sections 279/427/304-A IPC was registered against respondent No.1 on the statement of Tejinder Singh. Consequently, the claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION AWARDED BY THE TRIBUNAL

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 and thus, returned the finding on issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of Tejinder Singh (CW-2), who was an eye witness of the accident and on whose statement, FIR Ex.C7 was registered. Further, the claimants have proved on record copy of postmortem report Ex.C8.

As per income tax return Ex.C10, annual income of deceased was Rs.1,96,313/-. That means, his monthly income was Rs.16,350/-. Accordingly, income of the deceased was assessed by the Tribunal as Rs.16,350/- per month, out of which, 1/4th amount was deducted towards his personal expenses. The dependency of claimants, thus, came to Rs.12,250/-

per month i.e. Rs.1,47,000/- per annum. Deceased was about 35 years of age at the time of accident/death. The Tribunal had applied multiplier of 15. By doing so, the dependency of claimants came to Rs.22,05,000/- (Rs.1,47,000 x 15). In addition to this, Rs.25,000/- were awarded as funeral expenses and Rs.25,000/- as loss of estate. Ultimately, the claim petition was allowed and claimants were found entitled to Rs.22,55,000/-. Feeling dissatisfied with the impugned award, the claimants-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 also stands established that the deceased has died as a result of the accident. Parties are not in dispute with regard to finding given by the Tribunal on issue No.1 that the accident took place due to rash and negligent driving of offending vehicle by its driver-respondent No.1. Keeping in view 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.16,350/- per month
(ii)	40% of (i) above to be added as future prospects	16,350 + 6540 = Rs.22,890/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	Rs.22,890 – 5722 = Rs.17,168/-

(iv)	Compensation after multiplier of 16 is applied	Rs.17,168/- x 16 x 12 = Rs.32,96,256/-
(v)	Compensation under conventional heads (funeral expenses etc.)	Rs.70,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.33,66,256/-
(vii)	Enhanced amount of compensation	Rs.33,66,256 – 22,55,000 = Rs.11,11,256/-

The enhanced amount of compensation of **Rs.11,11,256/-** 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 allowed.

(RITU BAHRI)
JUDGE

03.05.2018
ajp

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