

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

**FAO No.4718 of 2014 (O&M)
Date of decision: 02.04.2018**

Shiksha Devi and others

....Appellants

Versus

Harvinder Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. R.C. Gupta, Advocate,
for the appellants.

Mr. Harsh Aggarwal, Advocate,
for respondent Nos.2 and 3.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Ambala (hereinafter referred to as 'the Tribunal') vide award dated 13.03.2014, on account of death of Gurjit Singh in a motor vehicular accident which took place on 30.01.2013. Appellant Nos.1 & 2 are parents and appellant Nos.3 & 4 are sisters of deceased Gurjit Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 30.01.2013, Gurjeet Singh (since deceased) along with the family of one Sunder Singh son of Karnail Singh was going to Nabha in a car bearing registration No. HR-01-Z-9105. In the meantime, at about 8.30 A.M., a PRTC bus bearing registration No. PB-12-Y-3673, being driven by respondent No.1 Harvinder Singh in a rash

and negligent manner, came from the opposite side and struck against the car of Gurjit Singh, as a result of which, Gurjit Singh and other occupants of the car suffered multiple injuries. They were shifted to Rajindera Hospital, Patiala, however, Gurjit Singh succumbed to the injuries. Driver of the offending bus ran away from the spot. However, the police got registered a criminal case against the driver of bus No.PB-11-Y-3673 on the statement of Sunder Lal son of Karnail Singh. 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 Gurjit 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 Sunder Lal (PW-2), who was an eye witness of the accident and on whose statement, the FIR Ex.P4 was registered. The claimants have also proved on record certified copy of report under Section 173 CPC Ex.P5 and charge sheet Ex.P6.

In the absence of any documentary proof, income of the deceased was assessed as Rs.6000/- per month. In this income, 30% addition has been made on account of future prospects. By doing so, total income of the deceased came to Rs.7800/- per month. Out of this, 50% amount was deducted towards personal expenses of the deceased, which came to Rs.3900/- per month i.e. Rs.46,800/- per annum. The Tribunal has held that claimant No.2-Om Parkash, being father of the deceased, was not dependent upon him. However, remaining claimants i.e. mother and two

unmarried sisters were treated as dependent upon the deceased. The deceased was 21 years of age at the time of accident/death. However, multiplier of 14 was applied keeping in view the age of mother of deceased, who was 45 years of age. After applying the multiplier of 14, dependency of claimants (appellants) came to Rs.6,55,200/- (46,800 x 14). In addition to it, Rs.25,000/- were awarded on account of consortium, transportation of dead body and last rites of deceased. Hence, appellant-claimant Nos.1, 3 and 4 were found entitled to total compensation of Rs.6,80,200/- 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 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 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
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(i)	Income	Rs.6000/- per month
(ii)	40% of (i) above to be added as future prospects	6000 + 2400 = Rs.8400/-
(iii)	50% of (ii) above is deducted as personal expenses of the deceased	8400 – 4200 = Rs.4200/-
(iv)	Compensation after multiplier of 18 is applied	Rs.4200/- x 12 x 18 = Rs.9,07,200/-
(v)	Compensation under the conventional heads	Rs.30,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.9,37,200/-
(vii)	Enhanced amount of compensation	Rs.9,37,200 – 6,80,200 = Rs.2,57,000/-

The enhanced amount of compensation of **Rs.2,57,000/-** 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

02.04.2018
ajp

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