

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

**CM No.10055-CII of 2015 in/and
FAO No.3384 of 2015
Date of decision: 03.05.2018**

Lakhpatri and others

....Appellants

Versus

Siri Ram and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Madan Pal, Advocate,
for the appellants.

Mr. V.D. Sharma, Advocate,
for respondent Nos.1 and 2.

Ms. Alka Joshi, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

CM No.10055-CII of 2015

For the reasons mentioned in the application, same is allowed
and delay of 389 days in re-filing of the appeal is condoned.

FAO No.3384 of 2015 (O&M)

This appeal has been filed by the claimant-appellants seeking
enhancement of compensation awarded by Motor Accident Claims Tribunal,
Karnal (hereinafter referred to as 'the Tribunal') vide award dated
01.11.2013 on account of death of Dalbir Singh in a motor vehicular
accident which took place on 16.08.2012. Appellant No.1 is widow and
appellant Nos.2 to 7 are children of deceased Dalbir Singh.

Brief facts of the case are that on 15.08.2012, Dalbir Singh (since deceased) along with cleaner Dalsher loaded *kutri parali* (paddy chaff) in a truck bearing registration No. HR-47-9829 for taking the same to Oil Mills. On 16.08.2012, at about 3.00 A.M., after unloading the said truck, they were returning to Kaithal. Dalbir Singh was driving the truck at a moderate speed. At about 3.50 A.M., when they reached near village Danauda Kalan, a truck bearing registration No. HR-56-A-1504 being driven by respondent No.1-Siri Ram in a rash and negligent manner, came from the side of Narwana and struck against the truck of Dalbir Singh, as a result of which, he (Dalbir Singh) received multiple and grievous injuries. He was taken to the General Hospital, Narwana, but he succumbed to the injuries in the way. With regard to the accident, FIR Ex.P1 was registered 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 the offending vehicle by its driver i.e. respondent No.1-Sir Ram. This finding was rightly given on the basis of deposition of Dalsher (PW-2), who was eye witness of the accident and on whose statement, FIR Ex.P1 was registered. Claimants have also proved on record copy report under Section 173 Cr.P.C. Ex.P2 and postmortem report of deceased as Ex.P4.

Deceased-Dalbir Singh was working as driver on a truck. The Tribunal has assessed his income as Rs.8000/-per month, out of which, 1/4th amount was deducted towards his personal expenses. By doing so,

remaining amount came to be Rs.6000/- per month i.e. Rs.72,000/- per annum. As per postmortem report, deceased was 45 years of age at the time of death/accident. The Tribunal has applied the multiplier of 13. After applying the multiplier of 13, dependency of claimants came to Rs.9,36,000/- (72,000/- x 13). In addition to it, Rs.5000/- were awarded to claimant No.1 (widow) as loss of consortium and Rs.10,000/- as funeral expenses. Hence, the claimants were found entitled to total compensation of Rs.9,51,000/- along with interest at the rate of 7% per annum from the date of filing of claim petition till its 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.8000/- per month

(ii)	25% of (i) above to be added as future prospects	8000 + 2000 = Rs.10,000/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	10,000 – 2500 = Rs.7500/-
(iv)	Compensation after multiplier of 14 is applied	Rs.7500/- x 12 x 14 = Rs.12,60,000/-
(v)	Compensation under the conventional heads	Rs.70,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.13,30,000/-
(vii)	Enhanced amount of compensation	Rs.13,30,000 – 9,51,000 = Rs.3,79,000/-

The enhanced amount of compensation of **Rs.3,79,000/-** 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 (arising out of SLP (C) No.26853 of 2016) decided on 19.01.2018.” Enhanced amount be released in favour of all the claimants, as they have attained majority. 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

03.05.2018
ajp

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