

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

**FAO No.2379 of 2016 (O&M)
Date of decision: 03.05.2018**

Vidya Devi & othersAppellants
Versus

Avtar Singh & othersRespondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ritesh Bhardwaj, Advocate,
for Mr. Keshav Pratap Singh, Advocate,
for the appellants.

Mr. Vipul Sharma, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

CM No.8592-CII of 2016

In view of the averments mentioned in the application, same is allowed and delay of 82 days in filing of the appeal is condoned.

FAO No.2379 of 2016

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Rupnagar (hereinafter referred to as 'the Tribunal') vide award dated 07.09.2015 on account of death of Rajbir in a motor vehicular accident which took place on 26.09.2014. Appellant Nos.1 & 2 are parents, whereas appellant Nos.3 & 4 are sisters of deceased Rajbir.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 26.09.2014, Rajbir (since deceased) was coming back to his village Mouli from village Shahazadpur, Tehsil Naraingarh, District Ambala on a motorcycle. At about 6.30 P.M.,

after crossing the culvert, when he reached near village Bagwali, in the

meantime, a TATA 407 vehicle bearing registration No. HR-37-5035, being driven by respondent No.1-Avtar Singh in a rash and negligent manner, came from the opposite side and struck against the motorcycle of Rajbir, as a result of which, he fell down and received multiplier injuries. The accident was witnessed by Faqir Chand, who was following the motorcycle of Rajbir on a separate motorcycle. He was taken to Devi Dayal College & Hospital, Bagwali, from where, he was referred to General Hospital, Sector 6, Panchkula. Consequently, he was referred to PGI, Chandigarh, where he was operated upon the head injury on 27.09.2014. Ultimately, Rajbir died on 06.10.2014. With regard to the incident, FIR was registered against respondent No.1 at Police Station, Raipur Rani on the statement of Faqir Chand. 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 and thus, returned finding on issue No.1 in favour of the claimant. This finding was rightly given on the basis of deposition of Faqir Chand @ Mangi (PW-2), who was eye witnesses of the accident and on whose statement, FIR Ex.P2 was registered. Claimants have also proved on record copy of charge sheet Ex.P3 and report under Section 173 Cr.P.C. Ex.P4.

In the absence of any documentary proof, income of the deceased was assessed as Rs.7000/- per month. In this income, 50% addition was made on account of future prospects. Total of the same came to Rs.10,500/- per month i.e. Rs.1,26,000/- per annum. Out of this, 50%

amount was deducted towards his personal expenses as he was unmarried. By doing so, remaining amount came to be Rs.63,000/-. The Tribunal has further observed that claimant Nos.2 to 4 being father and sisters of the deceased were not dependent upon him. Only the mother (claimant No.1) was held entitled to get the compensation. The deceased was 23 years of age at the time of death/accident. Multiplier of 14 was applied by the Tribunal keeping in view the age of his mother-claimant No.1, who was 40 years of age. After applying the multiplier of 14, dependency of claimant No.1-mother came to Rs.8,82,000/- (63,000/- x 14). In addition to it, Rs.10,000/- were awarded on account of medical expenditure, Rs.10,000/- towards funeral expenses and Rs.5000/- towards transportation. Hence, the claimant No.1 was found entitled to total compensation of Rs.9,07,000/- along with interest @ 8% per annum from the date of filing of the petition till realization. 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 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.9100/- per month
(ii)	40% of (i) above to be added as future prospects	9100 + 3640 = Rs.12,740/-
(iii)	50% of (ii) above is deducted as personal expenses of the deceased	12,740 – 6370 = Rs.6370/-
(iv)	Compensation after multiplier of 18 is applied	Rs.6370/- x 12 x 18 = Rs.13,75,920/-
(v)	Compensation under the conventional heads	Rs.30,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.14,05,920/-
(vii)	Enhanced amount of compensation	Rs.14,05,920 – 9,07,000 = Rs.4,98,920/-

The enhanced amount of compensation of **Rs.4,98,920/-** 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 partly allowed.

03.05.2018
ajp

(RITU BAHRI)
JUDGE