

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

FAO No.5743 of 2013 (O&M)

Date of decision: 02.02.2018

Smt. Satwinder Kaur and others

....Appellants

Versus

Gajjan Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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

Mr. Rajnikant Upadhyay, Advocate,
for respondent No.2.

Mr. B.S. Taunque, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

CM No.23982-CII of 2013

In view of the averments mentioned in the application, delay of 1164 days in filing of the appeal is condoned, subject to the condition that applicant-appellants will not be entitled to any interest for this period.

Misc. application stands allowed accordingly.

FAO No.5743 of 2013

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Sangrur (hereinafter referred to as 'the Tribunal') vide award dated 22.03.2010 on account of death of Rajwinder Singh @ Raju in a motor vehicular accident which took place on 18.01.2009. Appellant No.1 is widow, appellant No.2 is son and appellant Nos.3 and 4 are parents of

deceased Rajwinder Singh @ Raju.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 18.01.2009, Rajwinder Singh @ Raju (since deceased) along with Harvinder Singh @ Goldy and Sita Ram was going from his village Ghumoor Ghat to Rogle in a Maruti car (Zen) bearing registration No.PB-13-H-3096. Gagandeep Singh was driving the said car. Harmanjeet Singh and Jarnail Singh were following them in a separate Maruti car, as they were also going to village Rogle. At about 4.00 P.M., when the car of Gagandeep Singh reached near drain bridge within the area of Khanewal, a motorcycle was seen coming from the opposite side. In the meantime, a truck bearing registration No. PB-13-D-6873 being driven by respondent No.1-Gajjan Singh in a rash and negligent manner came from the side of Patran and in the process of overtaking the motorcycle, it struck against Maruti Zen car by going on the extreme *kachha* berm of the road, as a result of which, all the occupants of Zen car sustained multiple and grievous injuries. Motorcyclist also suffered injuries in the said accident. Gagandeep Singh succumbed to the injuries on the spot. Remaining injured persons were taken to Rajindra Hospital, where Harvinder Singh @ Goldy and Rajwinder Singh expired. With regard to the incident, FIR Ex.C1 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 been caused on account of rash and negligent driving of offending vehicle i.e. truck by its driver-respondent No.1 and returned finding on issue No.1 in favour of the claimants. This

finding was rightly given on the basis of deposition of Harmanjeet Singh (CW-3), who was eye witnesses of the accident. Further the claimants have proved copy of FIR Ex.C1 and postmortem report of deceased as Ex.C2.

In the absence of any documentary proof, income of the deceased was assessed as Rs.3000/- per month i.e. Rs.36,000/- per annum, as that of a casual labourer, out of which, 1/3rd amount was deducted towards his personal expenses, which came to be Rs.24,000/- per annum. The deceased was 25 years of age at the time of death/accident. Accordingly, multiplier of 18 was applied, whereupon dependency of claimants came to Rs.4,32,000/- (24,000 x 18). In addition to it, Rs.5000/- were awarded on account of loss of estate, Rs.5000/- towards funeral expenses and Rs.5000/- as love and affection. Hence, claimants were found entitled to total compensation of Rs.4,47,000/- along with interest @ 6% 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. Finding of negligence has rightly been given by the Tribunal and it does not require any interference on that account. 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.4000/- per month
(ii)	40% of (i) above to be added as future prospects	4000 + 1600 = Rs.5600/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	5600 – 1400 = Rs.4200/-
(iv)	Compensation after multiplier of 18 is applied	Rs.4200/- x 12 x 18 = Rs.9,07,200/-
(v)	Compensation under conventional heads	Rs.70,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.9,77,200/-
(vii)	Enhanced amount of compensation	Rs.9,77,200 – 4,47,000= Rs.5,30,200/-

The enhanced amount of compensation of **Rs.5,30,200/-** 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 @ 9% 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 “*Kumari Kiran through her father Harinarayan vs. Sajjan Singh and others*”, 2015(1) SCC 539. 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

02.02.2018
ajp