

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

**FAO No.251 of 2016
Date of decision: 20.04.2018**

Sarita Devi @ Pinki and others

....Appellants

Versus

Raju and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Abhishek Goyal, Advocate,
for Mr. S.P.Bedi, Advocate,
for the appellants.

Mr. Atul Goyal, Advocate,
for respondent No.2.

Mr. Ajay Singla, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Ludhiana (hereinafter referred to as 'the Tribunal') vide award dated 14.08.2015 on account of death of Jatinder Nath in a motor vehicular accident which took place on 10.05.2012. Appellant No.1 is mother, appellant Nos.2 & 3 are children and respondent No.4 is mother of deceased Jatinder Nath.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 10.05.2012, Jatinder Nath (since deceased) and other persons were coming from Vaishno Devi

towards Mandi Gobindgarh in a Maruti Van bearing registration No. PB-10-AC-6226. At about 10.30 P.M., when they reached near Senior Secondary School, G.T. Road, Sahnewal, Ludhiana, a Truck bearing registration No. PB-30-C-1368, being driven by respondent No.1-Raju in a rash and negligent manner, came from the opposite side and struck against the van, as a result of which, Jatinder Nath died on the spot. Other occupants of the van also suffered grievous injuries. With regard to the incident, FIR No.63 dated 10.05.2012, under Sections 337, 338, 427 & 304-A IPC was registered against respondent No.1 at Police Station, Sahnewal, Ludhiana. 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. This finding was rightly given on the basis of deposition of Sarita Devi (CW-1), who was an eye witness of the accident. Claimants have also proved on record copy FIR Ex.C3 and postmortem report of deceased as Ex.C4.

In the absence of any documentary proof, income of the deceased was taken as Rs.4000/- per month, out of which, Rs.800/- were deducted towards his personal expenses. By doing so, remaining amount came to be Rs.3200/- per month i.e. Rs.38,400/- per annum. The deceased was 34 years of age at the time of death/accident. Multiplier of 13 was applied by the Tribunal. After applying the multiplier of 13, dependency of claimants came to Rs.4,99,200/- (38,400/- x 13). In addition to it,

Rs.10,000/- were awarded on account of funeral expenses, Rs.1,00,000/- as loss of consortium and Rs.10,000/- on account of loss of love and affection. Hence, the claimants were found entitled to total compensation of Rs.6,19,200/-. 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 as per minimum wages	Rs.5000/- per month
(ii)	40% of (i) above to be added as future prospects	5000 + 2000 = Rs.7000/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	7000 – 1750 = Rs.5250/-
(iv)	Compensation after multiplier of 16 is applied	Rs.5250/- x 12 x 16 = Rs.10,08,000/-
(v)	Compensation under the conventional heads	Rs.70,000/-

(vi)	TOTAL COMPENSATION AWARDED	Rs.10,78,000/-
(vii)	Enhanced amount of compensation	Rs.10,78,000 – 6,19,200 = Rs.4,58,800/-

The enhanced amount of compensation of **Rs.4,58,800/-** 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.

(RITU BAHRI)
JUDGE

20.04.2018
ajp

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