

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

**FAO No.2552 of 2016
Date of decision: 20.03.2018**

Angrej Kaur and others

....Appellants

Versus

Harbans Lal and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Vivek Suri, Advocate,
for the appellants.

Mr. Radhey Shyam, 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, Patiala (hereinafter referred to as 'the Tribunal') vide award dated 14.01.2016 on account of death of Raj Kumar in a motor vehicular accident which took place on 23.12.2014. Appellant No.1 is widow and appellant Nos.2 & 3 are children of deceased Raj Kumar.

Brief facts of the case are that on 23.12.2014, Raj Kumar (since deceased) along with his son Gurdeep Singh (claimant No.2) was going from village Karhali to village Kherki on a motorcycle bearing registration No. PB-11-AL-4751. The said motorcycle was being driven by Gurdeep Singh and Raj Kumar was a pillion rider. At about 9.00 A.M., when they reached at the turn of bridge, situated at village Nizamniwala, a Tata Ace vehicle bearing registration No. HR-37-D-0926 being driven by Harbans

Lal-respondent No.1 in a rash and negligent manner came and struck against the motorcycle, as a result of which, both the occupants of motorcycle fell down on the road and received multiple, simple and grievous injuries. Raj Kumar was taken to Rajindera Hospital, Patiala, where he succumbed to the injuries. With regard to the incident, FIR No.311 dated 23.12.2014, under Sections 279/337/304-A IPC was registered at Police Station, Sadar, Samana 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- Harbans Lal. This finding was rightly given on the basis of deposition of Mahinder Ram (CW-3) and Gurdeep Singh (CW-4), who were eye witnesses of the accident. Claimants have also proved on record copy of postmortem report of deceased Ex.C1, charge sheet Ex.C4 and report under Section 173 Cr.P.C. Ex.C5 and and copy of FIR Ex.C7.

Deceased-Raj Kumar was working as Mali in Rajindera Hospital, Patiala. As per salary statement Ex.C2, he was drawing salary of Rs.27,774/- per month, which includes Rs.250/- as mobile allowance, Rs.2424/- as HRA, Rs.300/- as cycle allowance and Rs.60/- as washing allowance, which meant for his job. While assessing his income, Tribunal has deducted this amount from the monthly salary of deceased. Accordingly, the income of deceased was taken as Rs.24,740/- per month, out of which, 1/3rd amount was deducted towards his personal expenses. Remaining

amount came to be Rs.16,493/- per month. The deceased was 41 years of age at the time of death/accident. Accordingly, multiplier of 14 was applied. After applying the multiplier of 14, dependency of claimants came to Rs.27,70,880/- (Rs.16,493/- x 12 x 14). In addition to it, Rs.25,000/- were awarded on account of funeral expenses, Rs.1,00,000/- as loss of love and affection and Rs.50,000/- to respondent No.1 as loss of consortium. Hence, the claimants were found entitled to total compensation of Rs.29,45,880/-. 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. After going through the impugned award, this Court is of the view that HRA of Rs.2424/- could not be deducted from the salary of deceased. By including this amount in the salary of deceased, total income of deceased comes to Rs.27,164/- (Rs.2424/- + Rs.24,740/-). Accordingly, 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.27,164/- per month
(ii)	30% of (i) above to be added as future prospects	27,164 + 8149 = Rs.35,313/-
(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	35,313 – 11,771 = Rs.23,542/-
(iv)	Compensation after multiplier of 14 is applied	Rs.23,542/- x 12 x 14 = Rs.39,55,056/-
(v)	Compensation under the conventional heads	Rs.70,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.40,25,056/-
(vii)	Enhanced amount of compensation	Rs.40,25,056 – 29,45,880 = Rs.10,79,176/-

The enhanced amount of compensation of **Rs.10,79,176** /- 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

20.03.2018
ajp

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