

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

**FAO No.4390 of 2015
Date of Decision: 20.04.2018**

Meenakshi and Anr.

....Appellants

V/S

Baljit Singh and Ors.

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present : Mr. Dinesh Saini, Advocate, for
Mr. Pritam Singh Saini, Advocate,
for the appellants.

Mr. R.S. Madan, Advocate,
for respondent No.4.

RITU BAHRI, J.(Oral)

This appeal has been filed by the claimant(s)-appellant(s) seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Kurukshetra (hereinafter referred to as 'the Tribunal') vide award dated 07.02.2015, on account of death of Sunil Kumar in a motor vehicular accident which took place on 10.10.2013.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 10.10.2013, Sunil Kumar, since deceased, along with his relatives Rajesh Kumar and Krishna Lal had come to Pipli for their personal work on tow motorcycles. After completion of their work, they were going towards Ambala. Sunil Kumar was driving the motorcycle bearing registration No. HR-75-6154. At about 11.00 p.m., when they were in front of Bus Stand, Pipli on Pipli-Ambala Road, the offending truck bearing No. HR-55-M-9663 came from behind at a very fast speed and it was being driven in a rash and negligent manner by

respondent No.1. The offending truck without blowing horn struck the motorcycle of Sunil Kumar from behind. As a result of which Sunil Kumar and his pillion rider Rajesh Kumar fell down. Rajesh Kumar fell on the Katcha portion of the road while Sunil Kumar came under the wheels of the offending truck and received multiple, serious and grievous injuries and died. After the accident, respondent No.1 fled away from the spot leaving the offending truck near Mini Zoo, Pipli. The accident occurred due to rash and negligent driving of respondent No.1. The Police was informed and a criminal case was registered against respondent No.1.

Consequently, claimants-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 negligent driving of offending vehicle by driver. Claimants deposed that at the time of accident/death, deceased was 25 years of age and also stated that deceased Sunil Kumar was Peon-cum-Chowkidar in NCC office, Kurukshetra University, Kurukshetra and he was earning Rs.15,000/- per month and he was also running a dairy business.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimants. As deceased was not a permanent employee and appointed on local DC's rate as per salary certificate the DC rate was Rs. 6,655/- per month. From the documentary evidence, led by the claimants, it is clear that Sunil Kumar was working on daily wages and he was not given salary for leave or Sundays. The accident had taken place on 10.10.2013. In the year 2013, even a casual, labourer

was earning around Rs.6,000/- per month. Therefore, the Tribunal assessed the income of deceased at Rs. 6,000/- per month. As per the copy of matriculation certificate of Sunil Kumar as Ex. P11 he was 22 years of age at the time of accident. Hence, his age as on the date of his death shall be taken as 22 and therefore, relying upon the law laid down in **Smt. Sarla Verma and Others versus Delhi Transport Corporation and Anr, 2009(3) RCR 77,** multiplier of 18 has to be applied. As per the prevalent law at that time, Tribunal assessed the compensation as under:

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.6,000/- per month
(ii)	50% added towards Future Prospects	Rs.6,000+3000=9,000/-
(iii)	1/3 rd deducted towards personal expenses	Rs.9000-3000=6000/-
(iv)	Multiplier applied	Rs.6000X12X18=12,96,000/-
(v)	Compensation towards loss of love and affection	Rs.1,00,000/-
(vi)	Compensation towards last rites and funeral expenses	Rs.25,000/-
(vii)	Compensation towards loss of consortium	Rs.1,00,000/-
	Total amount of compensation	Rs.15,21,000/-

Feeling dissatisfied with the impugned award, the claimant-appellant has preferred the present appeal.

In the present appeal parties are not in dispute with the findings of issue no. 1 that accident took place due to the sole rash and negligent driving of respondent No. 1.

I have heard learned counsel for the parties and perused the record.

A perusal of the award shows that, compensation awarded by the Tribunal do not required any modification keeping in view the ratio laid down in the judgment of Hon'ble Supreme Court in case **National**

***Insurance Company Ltd vs. Pranay Sethi and others, passed in Spl Leave
Petition (Civil) No. 25590 of 2014, decided on October 31, 2017.***

Hence, the impugned Award, the orders of the learned Tribunal
does not reflect any material irregularity or perversity which warranting
interference. Hence the present appeal stands dismissed.

20.04.2018

Riya Grover

**(RITU BAHRI)
JUDGE**

***Whether speaking/reasoned Yes
Whether reportable No***