

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

**FAO No.3407 of 2016 (O&M)  
Date of decision: 07.05.2018**

Rukmani and others

....Appellants

Versus

Visakha Singh and others

....Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**

Present: Mr. Rajiv Kumar Saini, Advocate,  
for the appellants.

Mr. R.C. Gupta, 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, Karnal (hereinafter referred to as 'the Tribunal') vide award dated 12.01.2016, on account of death of Satender Kumar alias Santosh in a motor vehicular accident which took place on 12.07.2014. Appellant No.1 is widow and appellant Nos. 2 & 3 are parents of deceased Satender Kumar alias Santosh.

**FACTS NOT IN DISPUTE**

Brief facts of the case are that on 12.07.2014, Kanhaiya Lal along with Satender Kumar alias Santosh (since deceased) started their journey from Panipat to village Rerkala on a motorcycle bearing registration

whereas Satender Kumar alias Santosh was a pillion rider. When they reached at Kutana Chowk, a Swift Car bearing registration No. PB-03-AF-7565, being driven by respondent No.1-Visakha Singh in a rash and negligent manner, came and struck against the motorcycle, as a result of which, both the occupants of motorcycle received multiple and grievous injuries. Due to the injuries, Satender Kumar alias Santosh died at the spot. With regard to the accident, FIR Ex.P4 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 taken place on account of rash and negligent driving of offending vehicle by respondent No.1, as a result of which Satender Kumar alias Santosh has died and thus, returned the finding on issue no.1 in favour of the claimants. This finding was rightly given on the basis of the deposition of Kanhaiya Lal (PW-1), who was an eye witness of the accident and on whose statement, the FIR Ex.P4 was registered.

In the absence of any documentary proof, Tribunal has assessed the income of deceased as Rs.8100/- per month. Out of this, 1/3<sup>rd</sup> amount was deducted towards personal expenses of the deceased, which came to Rs.5400/- per annum (8100 – 2700). As per postmortem report Ex.P5, deceased was 24 years of age at the time of accident/death. Therefore, multiplier of 18 was applied. After applying the multiplier of 18, dependency of claimants (appellants) came to Rs.11,66,400/- (5400 x 12 x 18). In addition to it, Rs.50,000/- were awarded on account of funeral expenses and Rs.1,00,000/- as loss of consortium to claimant No.1. Hence,

appellant-claimants were found entitled to total compensation of Rs.13,16,400/- along with interest @ 9% 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 respect to the findings given by the Tribunal on issue No.1 that the accident had taken place on account of rash and negligent driving of the 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 11340Supreme 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.8100/- per month                  |
| (ii)    | 40% of (i) above to be added as future prospects                                 | 8100 + 3240 = Rs.11,340/-            |
| (iii)   | 1/3 <sup>rd</sup> of (ii) above is deducted as personal expenses of the deceased | 11,340 – 3780 = Rs.7560/-            |
| (iv)    | Compensation after multiplier of 18 is applied                                   | Rs.7560/- x 12 x 18 = Rs.16,32,960/- |
| (v)     | Compensation under the conventional heads                                        | Rs.70,000/-                          |
| (vi)    | <b>TOTAL COMPENSATION AWARDED</b>                                                | <b>Rs.17,02,960/-</b>                |

|       |                                 |                                             |
|-------|---------------------------------|---------------------------------------------|
| (vii) | Enhanced amount of compensation | Rs.17,02,960 – 13,16,400<br>= Rs.3,86,560/- |
|-------|---------------------------------|---------------------------------------------|

The enhanced amount of compensation of **Rs.3,86,560/-** 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 (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**

07.05.2018  
ajp

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