

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

F.A.O No. 6164 of 2014

Date of decision:- 10.01.2018

Geeta Rani Sharma & others

...Appellants

Versus

Avtar Singh & others

...Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Vipul Aggarwal, Advocate,
for the appellants.

Mr. Pardeep Rajput, Advocate,
for respondent No.1.

Mr. Rajeev Sharma, Advocate, for
Mr. K.D.S. Sodhi, Advocate,
for respondent No. 2.

Mr. Subhash Goyal, Advocate,
for respondent No.3.

RITU BAHRI J. (Oral)

CM NO. 16813-CII of 2014 :

This is an application for condonation of delay of 630 days in
filing the present appeal.

For the reasons recorded in the application, the same is allowed
and delay of 630 days in filing the present appeal is condoned.

Accordingly, application stands disposed of.

Main Case:

This appeal has been filed by the claimant-appellants seeking
enhancement of compensation awarded by Motor Accident Claims Tribunal,
Jalandhar (hereinafter referred to as 'the Tribunal') vide award dated
03.04.2012, on account of death of Kuldeep Kumar Sharma in a motor
vehicular accident which took place on 06.11.2010.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 06.11.2010, Kuldeep Kumar Sharma (since deceased) at about 8.30 a.m alongwith his brother Rakesh Kumar were coming back to village Lallian Khurd after purchasing some goods from Jalandhar on scooter bearing No.PB-08-AG-0746 which was driver by Kuldeep Kumar Sharma on correct side and at normal speed. When they reached near Dharamput Abadi near Bharat Welding, respondent No. 1 who was driving truck bearing No. PB-08-BC-9675 in a rash and negligent manner at a very high speed on a wrong side, struck the same against the scooter of Kuldeep Kumar (deceased). Due to the same, Kuldeep Kumar fell on the road and the front tyre of the truck ran over the head of the Kuldeep Kumar as a result of which, Kuldeep Kumar received serious injuries and died at the spot. With regard to the accident, FIR Ex.P8 was registered at Police Station, Sadar, Jalandhar against respondents on the statement of Rakesh Kumar Sharma. 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 truck by respondent No.1. This finding was rightly given on the basis of FIR, Ex.P1 to Ex. P8 and and deposition of PW-1 and PW-2. In accordance with documentary proof Income tax return Ex. P5, income of deceased was assessed as Rs.1,56,000/- per month, out of which, 1/4th amount was deducted towards his personal expenses. The annual dependency of claimants, thus, came to Rs.1,17,000/-. The deceased was 34

years of age at the time of accident/death and the multiplier of 16 was applied. Thus, the claimants were found entitled to compensation of Rs.18,72,000/-. In addition to it, Rs.5,000/- were awarded towards loss of consortium to widow-appellant No.1, Rs. 5000/- towards loss of estate and Rs.2,500/- towards loss of funeral expenses. Hence, the claimants were found entitled to a total compensation of Rs.18,84,500/- along with interest @ 7.5% per annum from the date of filing of the petition till realization. Claimant No. 1 is widow of the deceased, Claimant Nos. 2 and 3 are the minor children of the deceased and Claimant No. 4 is the mother of the deceased and all the claimants were dependent upon the income of the deceased and thus they are entitled to compensation as under:

<i>Sr. No.</i>	<i>Name of the claimants</i>	<i>Amount</i>
1	Claimant No. 1, Geeta Rani Sharma (Widow)	Rs. 7,53,500/-
2	Claimant No. 2, Prabha (minor daughter)	Rs. 4,24,162.50/-
3	Claimant No. 3, Saksham Sharma, Minor son	Rs. 4,24,162.50/-
4	Claimant No. 4, Krishna Rani, mother	Rs. 2,82,675/-
	Total	Rs. 18,84,500/-

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. 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 *National Insurance Company Limited Vs.*

Pranay Sethi and others, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017) and **Sarla Verma and others vs. Delhi Transport Corporation and another** , 2009 (3) RCR (Civil) Page 77, as under:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs. 1,56,410/-P.a.
(ii)	40% of (i) above to be added as future prospects=	Rs.1,56,410/+ 62,564=2,18,974 per annum
(iii)	1/4 th of (ii) deducted as personal expenses of the deceased=	Rs.2,18,974-Rs.54,743.5=Rs.164,230.5 per annum
(iv)	Compensation after multiplier of 16 is applied	Rs.164,230.5 X 16= Rs. 2,627,688/-
(v)	Conventional heads (Loss of estate, Loss of consortium, funeral expenses)	Rs.70,000/-
	Total Compensation awarded	Rs. 2,697,688/-
	Enhanced amount of compensation	Rs.2,697,688-Rs.18,84,500 =Rs.813,188/-

The enhanced amount of compensation of **Rs.813,188 /-** 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. Thus they are entitled to compensation as under:

<i>Sr. No.</i>	<i>Name of the claimants</i>	<i>Amount</i>
1	Claimant No. 1, Geeta Rani Sharma (Widow)	Rs. 5,00,000/-
2	Claimant No. 2, Prabha (minor daughter)	Rs.135,000/-
3	Claimant No. 3, Saksham Sharma, Minor son	Rs.135,000/-
4	Claimant No. 4, Krishna Rani, mother	Rs. 43,188/-
	Total	Rs. 813,188/-

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.

10.01.2018
Riya Grover

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>