

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

**FAO No.3585 of 2016 (O&M)
Date of decision: 03.05.2018**

Balvir Kaur & others

....Appellants

Versus

Sabir Khan & others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. H.S. Rakhra, Advocate,
for the appellants.

Mr. Satpal Dhamija, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Fatehgarh Sahib (hereinafter referred to as 'the Tribunal') vide award dated 24.11.2015, on account of death of Raghuvir Singh in a motor vehicular accident which took place on 28.05.2014. Appellant No. 1 is widow and appellant Nos.2 & 3 are sons of deceased Raghuvir Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 27.05.2014, Raghuvir Singh (since deceased), who was a transporter owning truck No. HR-63-D-5096, loaded material on the said truck to be delivered at Kanpur (UP). At about 11.30 P.M., Raghuvir Singh, his employee/conductor Satish and brother Nishan Singh proceeded from Ludhiana towards Kanpur. Said Nishan Singh had to alight at Ambala. At about 3.00 A.M., on 28.05.2014, when

they reached on the over bridge near Bus-Stand, Sadhugarh, then the front tyre of his truck got punctured. Raghuvir Singh and Satish Kumar started replacing the punctured tyre with another tyre. In the meantime, a truck bearing registration No. HR-63-A-6724, being driven by respondent No.1- Sabir Khan in a rash and negligent manner, came from behind and struck against the truck of Raghuvir Singh, as a result of which, Raghuvir Singh was crushed beneath the truck and died at the spot. Satish also received injuries in the accident. Postmortem of the dead body of Raghuvir Singh was conducted at Civil Hospital, Fatehgarh Sahib. With regard to the accident, FIR No.80 dated 28.05.2014, under Sections 279/337/304-A IPC was registered against respondent No.1. Consequently, the claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION AWARDED BY THE TRIBUNAL

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 and thus, returned the finding on issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of Nishan Singh (CW-1), who was an eye witness of the accident and on whose statement, FIR Ex.C1 was registered. Further, the claimants have proved on record copy of death certificate of deceased, voter card, ration card and postmortem report as Ex.C3 to Ex.C6.

In the absence of any document proof, income of deceased was assessed by the Tribunal as Rs.10,000/- per month, out of which, 1/3rd amount was deducted towards his personal expenses. The dependency of claimants, thus, came to Rs.6600/- per month. Deceased was about 54 years

of age at the time of accident/death. The Tribunal had applied multiplier of 11. By doing so, the dependency of claimants came to Rs.8,71,200/- (Rs.6600 x 12 x 11). In addition to this, Rs.25,000/- were awarded as funeral expenses and Rs.1,00,000/- were awarded to claimant No.1 (widow) as loss of consortium. Ultimately, the claim petition was allowed and claimants were found entitled to Rs.9,96,200/- along with interest at the rate of 7% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimants-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 also stands established that the deceased has died as a result of the accident. Parties are not in dispute with regard to finding given by the Tribunal on issue No.1 that the accident took place due to rash and negligent driving of offending vehicle by its driver-respondent No.1. Keepin in view 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.10,000/- per month
(ii)	10% of (i) above to be added as future prospects	10,000 + 1000 = Rs.11,000/-

(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	Rs.11,000 – 3666 = Rs.7334/-
(iv)	Compensation after multiplier of 11 is applied	Rs.7334/- x 11 x 12 = Rs.9,68,088/-
(v)	Compensation under conventional heads (funeral expenses etc.)	Rs.70,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.10,38,088/-
(vii)	Enhanced amount of compensation	Rs.10,38,088 – 9,96,200 = Rs.41,888/-

The enhanced amount of compensation of **Rs.41,888/-** 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 allowed.

(RITU BAHRI)
JUDGE

03.05.2018
ajp

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