

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 3645 of 2016

Date of Decision: 15.02.2018

Smt. Kavita and Others

....Appellants

V/S

Kuldeep and Others

....Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present : Mr. Kanhiya Soni, Advocate,
for the appellants.

RITU BAHRI, J.(Oral)

CM No. 12679-CII of 2016

For the reasons mentioned in the application, same is allowed
and delay of 509 days in filing the present appeal is condoned.

Accordingly, present 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, Bhiwani (hereinafter referred to as 'the Tribunal') vide award dated
06.08.2014, on account of death of Raj Kumar in a motor vehicular
accident which took place on 07.12.2011.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 07.12.2011, Raj Kumar along
with his father Ramehar and brother Ajay was going from Durga colony,
Bhiwani to their native village Kaliawas. Raj Kumar and his father Ramehar
boarded three-wheeler bearing registration No. HR 61-A-2500 from CCI

crossing, Charkhi Dadri for going to Village Kaliawas. Two passengers were also sitting in the said three-wheeler. The said three-wheeler was being driven by its driver i.e. Respondent No. 5 and behind the three wheeler, Pankaj son of Shri Balbir Singh, resident of Kaliawas along with Ajay was coming on the motorcycle for going to village Kaliawas. Ajay was the pillion rider and at about 9.00- 9.30 A.M. , when the three wheeler reached in front of drain (ganda-nala) Samaspur, in the meanwhile on Tata 407 bearing registration No. HR-61-5627 being driven by its driver rashly, negligently, in a zig zag manner and at a very high speed came from Delhi side and stuck the side of the three wheeler. Due to heavy impact, the three wheeler turned turtle and the passengers sitting in the three wheeler crushed under the three wheeler. Raj Kumar and his father Rameha sustained fatal and grievous injuries on vital parts of their respective bodies. After the accident, all the injured on vital parts of their respective bodies. After the accident, all the injured including Raj Kumar and Ramehar were taken out from under the three wheeler by Pankaj and Ajay with the help of passerby and after arranging private vehicle, they were taken to General Hospital, Charkhi Dadri for treatment but doctors declared Raj Kumar and Ramehar dead. The accident caused solely due to rash and negligent driving of respondent no. 1. The accident was witnessed by Pankaj and Ajay who were coming on the motorcycle behind the three wheeler. On their statement an FIR No. 347 dated 07.12.2011 under sections 279/304A of the Indian Penal Code was registered at Police Station Sadar, Charkhi Dadri 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 respondent No.1. Claimants deposed that at the time of accident/death, deceased was 37 years of age and he was earning Rs.30,000/- per month.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimants. As per the law laid down in *Sarla Verma and others vs. Delhi Transport Corporation and another* , 2009 (3) RCR (Civil) Page 77, in case of deceased's age of 38 years, multiplier of 15 would be applicable, to calculate the amount of compensation payable to the claimants. Hence, Tribunal assessed the compensation as under:

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs. 4,644/-
(ii)	30% added towards future prospects	Rs.4,644+1393=Rs.6,037/-
(III)	1/4 th deducted towards personal expenses	Rs.6,037-1509=4,528
(iii)	Multiplier applied	Rs.4,528X12X15=8,15,040/-
(iv)	Compensation towards funeral expenses, loss of consortium	Rs.1,25,000/-
	Total Compensation	Rs. 9,40,040/-

Feeling dissatisfied with the impugned award, the claimant-appellants have 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 to be modified 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.

15.02.2018
Riya Grover

(RITU BAHRI)
JUDGE

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