

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

**FAO No.5045 of 2015 (O&M)
Date of decision: 21.02.2018**

Darshan Singh and others

....Appellants

Versus

Dr. Vijay Gatebal and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Tribhawan Singla, Advocate,
for the appellants.

Mr. Munish Raj Chaudhary, Advocate,
for respondent No.1.

Mr. R.N. Singhal, Advocate,
for respondent No.2-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, Barnala (hereinafter referred to as 'the Tribunal') vide award dated 01.05.2015 on account of death of Pritam Kaur in a motor vehicular accident which took place on 19.11.2013. Appellant No.1 is husband, appellant Nos.2 to 4 are children of deceased Pritam Kaur.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 19.11.2013, at about 8.00 P.M., Pritam Kaur (since deceased) along with her husband Darshan Singh had gone to attend a marriage at Marry Land Palace, Dhanaula Road, Barnala on a scooter. After parking the scooter, when they were about to

proceed on foot towards the Palace, in the meantime, a Santro Car bearing registration No. DL-2-CQ-3347 being driven by respondent No.1-Dr. Vijay Gatebal in a rash and negligent manner, came from the side of Sangrur and struck against Pritam Kaur, as a result of which, she received multiple injuries, including head injury. Pritam Kaur was taken to Civil Hospital, Barnala, where she succumbed to the injuries. With regard to the incident, FIR No. 108 dated 20.11.2013, under Sections 279/304-A IPC was registered at Police Station, Dhanaula 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 the offending vehicle by its driver i.e. respondent No.1. This finding was rightly given on the basis of deposition of Darshan Singh (PW-2), who was eye witnesses of the accident and on whose statement, FIR Ex.P2 was registered. Further, the claimants have proved copy of postmortem report Ex.P3.

Pritam Kaur-deceased was posted as Head Teacher at Government Primary School, Sherpur, District Sangrur and used to draw gross salary of Rs.45,336/- per month. Since, the deceased was on the verge of her retirement, the Tribunal did not consider her salary for determining the compensation. Accordingly, notional income of the deceased was assessed as Rs.7000/- per month, out of which, 1/2 amount was deducted towards her personal expenses, which came to be Rs.3500/- per month i.e. Rs.42,000/- per annum. As per postmortem report, the deceased was 57

years of age at the time of death/accident. Accordingly, multiplier of 09 was applied. After applying the multiplier of 09, dependency of claimants came to Rs.3,78,000/- (42,000/- x 09). In addition to it, Rs.5,000/- were awarded on account of funeral expenses and Rs.10,000/- as loss of consortium. Hence, the claimants were found entitled to total compensation of Rs.3,93,000/- along with interest @ 6% per annum from the date of filing of the petition till realization. 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. There is no dispute with regard to the finding returned by 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. However, the compensation awarded is required to be enhanced keeping in view that the deceased was working as Head Teacher in a Government school. Sarabjit Kaur, Clerk, DPEO Office, Sherpur while appearing as PW-1 proved the salary certificate of deceased as Ex.P1, as per which, she was drawing gross salary of Rs.45,536/-. 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 **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.45,536/- per month
(ii)	10% of (i) above is deducted towards income tax	Rs.45,536 – 4553 = Rs.40,983/-
(iii)	15% of (ii) above to be added as future prospects	40,983 + 6147 = Rs.47,130/-
(iv)	½ of (iii) above is deducted as personal expenses of the deceased	47,130 – 23,565 = Rs.23,565/-
(v)	Compensation after multiplier of 09 is applied	Rs.23,565/- x 12 x 09 = Rs.25,45,020/-
(vi)	Compensation under conventional heads	Rs.30,000/-
(vii)	TOTAL COMPENSATION AWARDED	Rs.25,75,020/-
(viii)	Enhanced amount of compensation	Rs.25,75,020 – 3,93,000= Rs.21,82,020/-

The enhanced amount of compensation of **Rs.21,82,020/-** 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. 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

21.02.2018
ajp

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