

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

**FAO No.4300 of 2016 (O&M)
Date of decision: 12.01.2018**

Surjit Kaur

....Appellant

Versus

Rajinder Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sushil Saini, Advocate,
for the appellant.

Mr. A.P.S. Mann, Advocate,
for Mr. G.G.S. Rai, Advocate,
for respondent Nos. 1 and 2.

Mr. Radhe Shyam, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Tarn Taran (hereinafter referred to as 'the Tribunal') vide award dated 16.11.2015, on account of death of Gurjant Singh in a motor vehicular accident which took place on 20.06.2014. Appellant is mother, whereas respondent No.4 is father of deceased Gurjant Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 20.06.2014, Gurjant Singh (since deceased) along with Jatinderpal Singh (pillion rider) was going from his village towards Airport on a motorcycle bearing registration No. PB-46-Temp-0167 for receiving his friend. At about 6.00 A.M., when they reached

near 'T' point Majha College, Dinpur, a truck-trolla bearing registration No.HR-58-A-6021 being driven by respondent No.1-Rajinder Singh in a rash and negligent manner, came from the opposite side and struck against the motorcycle, as a result of which, both the occupants of motorcycle fell down on the road and received multiple injuries. Gurjant Singh died on the spot. Jatinderpal Singh was got admitted in hospital. With regard to the incident, FIR No.137 dated 20.06.2014, under Sections 279/337/304-A/338/427 IPC was registered against respondent No.1 on the statement of Phulla Singh. Consequently, the claimant-appellant along with respondent No.4 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 rash and negligent driving of offending truck-tralla by respondent No.1, as a result of which Gurjant Singh 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 Phulla Singh (PW-1), who was an eye witness of the accident and on whose statement, FIR Ex.P1 was registered. The claimants have also proved on record postmortem report Ex.P2 and photocopy of report under Section 173 CPC as Mark G.

In the absence of any documentary proof, income of the deceased was assessed as Rs.7000/- per month as that of a skilled worker. Out of this, 1/2 amount was deducted towards personal expenses of the deceased, which came to Rs.3500/- per month. The deceased was 24 years of age at the time of accident/death. He was a bachelor. After applying the multiplier of 18, dependency of claimant No.1 (appellant) came to

Rs.7,56,000/- (3500/- x 12 x 18). In addition to it, Rs.25,000/- were awarded on account of funeral expenses. Hence, appellant-claimant No.1 was found entitled to total compensation of Rs.7,81,000/- along with interest @ 6% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-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. 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 (as per minimum wages)	Rs.8000/- per month
(ii)	40% of (i) above to be added as future prospects	8000 + 3200 = Rs.11,200/-
(iii)	50% of (ii) above is deducted as personal expenses of the deceased	11,200 – 5600 = Rs.5600/-
(iv)	Compensation after multiplier of 18 is applied	Rs.5600/- x 12 x 18 = Rs.12,09,600/-
(v)	Funeral expenses and love and affection etc.	Rs.15,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.12,24,600/-
(vii)	Enhanced amount of compensation	Rs.12,24,600 – 7,81,000 = Rs.4,43,600/-

The enhanced amount of compensation of **Rs.4,43,600/-** 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

12.01.2018
ajp

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