

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

FAO-5667-2015(O&M)

Date of decision: 09.05.2018

Umar Mohd. and others

...Appellants

V/s.

Mubin and others

...Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI.**

Present: Mr. Arjun Attri, Advocate for the appellants.

Mr. Mohammad Arshad, Advocate for  
respondents No.1 and 2.

Mr. Pradeep Kumar, Advocate  
for respondent No. 3-insurance co.  
\*\*\*

**RITU BAHRI, J. (Oral).**

**CM-17865-CII-2015**

This is an application for condonation of delay of 225 days in  
filing the appeal.

Notice of this application was issued and the reply has been  
filed by learned counsel for insurance company.

For the reasons stated in the application, delay of 225 days in  
filing the appeal is condoned.

**CM-17866-CII-2015**

Allowed, as prayed for.

**FAO-5667-2015**

This appeal has been filed by the claimant-appellants seeking  
enhancement of compensation awarded by Motor Accident Claims Tribunal,

Mewat (hereinafter referred to as 'the Tribunal') vide award dated 29.08.2014 on account of death of Rahish in a motor vehicular accident which took place on 21.06.2013. Appellants No. 1 and 2 are the parents of the deceased while others are the siblings of the deceased.

**FACTS NOT IN DISPUTE**

Brief facts of the case are that Rahish died in a road accident which took place on 21.06.2013. The complainant alongwith deceased Rahish were going to their village while sitting on motorcycle bearing registration No. HR-27-1875 Splendor Peero after closing the shop. When they reached near Government Farm in the area of PS Punhana, an offending vehicle bearing registration No. HR-52-9022 driven by respondent No. 1 rashly and negligently came and hit against the motorcycle which resulted into serious injuries and finally Rahish died on 21.06.2013. 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 been caused on account of rash and negligent driving of Tractor by its driver-respondent No.1 Mubin and returned finding on issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of PW1 Harish, who was eye witness of the accident. Further the claimants have placed on record copy of FIR. Ex. P14, charge sheet Ex.P1.

In the absence of sufficient documentary evidence to prove the salary as Rs.20,000/- p.m., the Tribunal had assessed Rs.3,500/- p.m. and the annual income of the deceased came to be Rs.42,000 (Rs.3500 X 12).

The deceased was 20 years old and was unmarried at the time of accident.

The Tribunal has assessed the compensation as under:-

| Sr. No. | HEADS                                               | CALCULATIONS              |
|---------|-----------------------------------------------------|---------------------------|
| (i)     | Income                                              | Rs.3500/- per month       |
| (ii)    | Annual income                                       | 3500 X 12=42000/-         |
| (iii)   | 50% deduction for personal expenses                 | (42000-21000)=Rs.21,000/- |
| (iv)    | Applied multiplier of 18                            | (21000X18)=Rs.3,78,000/-  |
| (v)     | Love and affection and expenses spent on last rites | 20,000/-                  |
| (vi)    | <b>TOTAL COMPENSATION AWARDED</b>                   | <b>Rs. 3,98,000/-</b>     |
|         |                                                     |                           |

Hence, the claimants were found entitled to total compensation of Rs.3,98,000/- along with interest @9% 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. Finding of negligence has rightly been given by the Tribunal and it does not require any interference on that account. In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed in view of the minimum wages in the State of Haryana in the year 2013 as under:-

| Sr. No. | HEADS                                                              | CALCULATIONS              |
|---------|--------------------------------------------------------------------|---------------------------|
| (i)     | Income                                                             | Rs.5500/- per month       |
| (ii)    | 40% of (i) above to be added as future prospects                   | 5500+2200=7700            |
| (iii)   | 50% of (ii) above is deducted as personal expenses of the deceased | 7700-3850=3850            |
| (iv)    | Compensation after multiplier of 18 applied                        | 3850 X 12 X 18=8,31,600/- |
| (v)     | Compensation under conventional heads                              | Rs.30,000/-               |
| (vi)    | <b>TOTAL COMPENSATION AWARDED</b>                                  | <b>Rs. 8,61,600/-</b>     |

|       |                                    |                                        |
|-------|------------------------------------|----------------------------------------|
| (vii) | ENHANCED AMOUNT OF<br>COMPENSATION | Rs.8,61,600-3,98000 =<br>Rs.4,63,600/- |
|-------|------------------------------------|----------------------------------------|

The enhanced amount of compensation of **Rs.4,63,600/-** 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 @ 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 V/s. The Oriental Insurance Company Ltd. and others in Civil Appeal No. 448 of 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

May 09, 2018  
Divyanshi

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