

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

**FAO No.5682 of 2015 (O&M)
Date of decision: 20.03.2018**

Chaudhary Paswan and others

....Appellants

Versus

Rohtash and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. J.S. Rozera, 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 claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Panipat (hereinafter referred to as 'the Tribunal') vide award dated 18.11.2014, on account of death of Bam Bam Kumar in a motor vehicular accident which took place on 12.07.2012. Appellant Nos.1 & 2 are parents and appellant Nos.3 to 5 are brothers and sister of deceased Bam Bam Kumar.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 12.07.2012, Bam Bam Kumar (since deceased) was going on G.T. Road in front of Singla Factory. In the meantime, a Jeep Mahindra Pick-up bearing registration No.HR-38-H-6150, being driven by respondent No.1-Rohtash in a rash and negligent manner,

came from the side of Panipat and hit Bam Bam Kumar, as a result of which, he received multiple serious and grievous injuries. Bam Bam Kumar was taken to the hospital by the passersby, but he succumbed to the injuries. With regard to the accident, FIR Ex.P6 was registered 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 offending vehicle by respondent No.1, as a result of which Bam Bam Kumar 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 Satish (PW-2), who was an eye witness of the accident. The claimants have also proved on record certified copy of report under Section 173 CPC Ex.P1 and postmortem report Ex.P2.

In the absence of any documentary proof, income of the deceased was assessed as Rs.8000/- per month as a daily wager, out of which, 50% amount was deducted towards his personal expenses, which came to Rs.4000/- per month. The deceased was 19 years of age at the time of accident/death. However, multiplier of 13 was applied keeping in view the age of mother of deceased, who was 48 years of age. After applying the multiplier of 13, dependency of claimant Nos.1 and 2 (parents) came to Rs.6,24,000/- (4000 x 12 x 13). In addition to it, Rs.10,000/- were awarded on account of transportation of the dead body, funeral and last rites of deceased. Hence, appellant-claimant Nos.1 and 2 were found entitled to total compensation of Rs.6,34,000/- 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. Parties are not in dispute with respect to the findings given by the 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. 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.6000/- per month
(ii)	40% of (i) above to be added as future prospects	6000 + 2400 = Rs.8400/-
(iii)	50% of (ii) above is deducted as personal expenses of the deceased	8400 – 4200 = Rs.4200/-
(iv)	Compensation after multiplier of 18 is applied	Rs.4200/- x 12 x 18 = Rs.9,07,200/-
(v)	Compensation under the conventional heads	Rs.30,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.9,37,200/-
(vii)	Enhanced amount of compensation	Rs.9,37,200 – 6,34,000 = Rs.3,03,200/-

The enhanced amount of compensation of **Rs.3,03,200/-** 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 (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 partly allowed.

(RITU BAHRI)
JUDGE

20.03.2018
ajp

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