

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

**FAO No.4877 of 2016 (O&M)
Date of decision: 07.05.2018**

Smt. Kusum and others

....Appellants

Versus

Prem Chand and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sandeep Singh, Advocate,
for the appellants.

Mr. Puneet Jain, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

CM No.16661-CII of 2016

In view of the averments mentioned in the application, same is allowed and delay of 20 days in filing of the appeal is condoned.

FAO No.4877 of 2016

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal') vide award dated 14.10.2015, on account of death of Gurjeet in a motor vehicular accident which took place on 10.12.2013. Appellant Nos.1 & 2 are parents, whereas appellant Nos.3 & 4 are brothers of deceased Gurjeet.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 10.12.2013, Gurjeet and

Deepak @ Bittu (since deceased) were going on a motorcycle bearing registration No. CH-03-H-7714. The said motorcycle was being driven by Deepak, whereas Gurjeet was a pillion rider. One Rambhal, resident of village Salwan was following them on a separate motorcycle bearing registration No. HR-40-B-7285. At about 10.30/11.00 P.M., when they reached near the pond of village Gagsina, a Mahindra Max bearing registration No. HR-65-6984 being driven by respondent No.1 Prem Chand in a rash and negligent manner, came from the opposite side and struck into the motorcycle driven by Deepak, as a result of which, Deepak and Gurjeet fell down and died at the spot. With regard to the accident, FIR No.566 dated 11.12.2013, under Sections 279/304-A IPC was registered against respondent No.1 at Police Station, Gharaunda, on the statement of Rambhul. 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 Deepak and Gurjeet have 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 Ram Bhool (PW-1), who was an eye witness of the accident and on whose statement, the FIR was registered. The claimants have also proved on record postmortem report of Gurjeet alias Jitu as Ex.PW3/B1, copy of report under Section 173 CPC Ex.P3 and charge sheet Ex.P2.

In the absence of any documentary proof, income of the

deceased was assessed as Rs.8100/- per month as that of a daily wager. Out of this, 50% amount was deducted towards personal expenses of the deceased, which came to Rs.4050/- per month i.e. Rs.48,600/- per annum. The deceased was 19 years of age at the time of accident/death. Therefore, multiplier of 18 was applied. After applying the multiplier of 18, dependency of claimants (appellants) came to Rs.8,74,800/- (48,600 x 18). In addition to it, Rs.25,000/- were awarded on account of funeral expenses and Rs.1,00,000/- towards loss of love and affection. Hence, appellant-claimants were found entitled to total compensation of Rs.9,99,800/- i.e. Rs.10,00,000/- (round figure) along with interest @ 9% 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. 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	Rs.8100/- per month
(ii)	40% of (i) above to be added as future prospects	8100 + 3240 = Rs.11,340/-
(iii)	50% of (ii) above is deducted as personal expenses of the deceased	11,340 – 5670 = Rs.5670/-
(iv)	Compensation after multiplier of 18 is applied	Rs.5670/- x 12 x 18 = Rs.12,24,720/-
(v)	Compensation under the conventional heads	Rs.30,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.12,54,720/-
(vii)	Enhanced amount of compensation	Rs.12,54,720 – 10,00,000 = Rs.2,54,720/-

The enhanced amount of compensation of **Rs.2,54,720/-** 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

07.05.2018
ajp

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