

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

**FAO No.762 of 2014 (O&M)
Date of decision: 04.04.2018**

Satish Kumar and another

....Appellants

Versus

Suresh Kumar and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Bhupinder Singh, 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, Karnal (hereinafter referred to as 'the Tribunal') vide award dated 12.04.2013 on account of death of Mewa Devi in a motor vehicular accident which took place on 10.12.2010. Appellants are son and daughter-in-law of deceased Mewa Devi.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 10.12.2010, at about 4.00 P.M., Mewa Devi (since deceased), Darsho Devi, Jagmal Singh and Rinku were standing on the kacha portion of the road of Pucca Khera Mor and were waiting for a bus for going to village Padhana, Tehsil Assandh, District Karnal. In the meantime, a truck bearing registration No.HR-33-E-

negligent manner, came from the side of Karnal and struck against them by coming on the wrong side of the road, as a result of which, all the aforesaid persons received multiple, serious and grievous injuries. They were shifted to Civil Hospital, Karnal. Unfortunately, injured Mewa Devi, Darsho, Jagmal and Rinku succumbed to the injuries. The accident was witnessed by Vinod Kumar son of Sham Lal. With regard to the incident, FIR No.413/2010, under Section 304-A IPC was registered against respondent No.1 at Police Station, Nissing. 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 and thus, returned finding on issue no.1 in favour of the claimants. This finding was rightly given on the basis of deposition of Vinod Kumar (PW-2), who was eye witnesses of the accident. Claimants have also proved on record copy of FIR Ex.P1, report under Section 173 Cr.P.C. Ex.P2 and postmortem report of deceased Ex.P4.

Deceased-Mewa Devi was a housewife. In the absence of any documentary evidence, notional income of deceased was assessed as Rs.3000/- per month i.e. Rs.36,000/- per annum, out of which, ½ amount was deducted towards her personal expenses. By doing so, remaining amount came to be Rs.18,000/- per annum. The deceased was 65 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.1,62,000/- (18,000 x 09). In addition to it, Rs.2000/- were awarded on

account of funeral expenses and Rs.2000/- towards loss of estate. Hence, the claimants were found entitled to total compensation of Rs.1,66,000/- along with interest @ 7% 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 regard to the findings given by Tribunal on issue No.1 that the accident had taken place due to rash and negligent driving of offending vehicle by respondent No.1. This Court is of the view that no deduction can be made in the notional income of the deceased. 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.4500/- per month
(ii)	Compensation after multiplier of 05 is applied	Rs.4500/- x 12 x 05 = Rs.2,70,000/-
(iii)	Compensation under the conventional heads	Rs.15,000/-
(iv)	TOTAL COMPENSATION AWARDED	Rs.2,85,000/-

(v)	Enhanced amount of compensation	Rs.2,85,000 – 1,66,000 = Rs.1,19,000/-
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The enhanced amount of compensation of **Rs.1,19,000-** 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 (arising out of SLP (C) No.26853 of 2016) 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

04.04.2018
ajp

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