

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

FAO No.6251 of 2015 (O&M)

Date of decision: 13.03.2018

Silochna and others

....Appellants

Versus

Jai Narain and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. J.P. Sharma, Advocate,
for the appellants.

Mr. Vikram Lakhlan, Advocate,
for respondent No.2.

Mr. Sanjeev Goyal, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Bhiwani (hereinafter referred to as 'the Tribunal') vide award dated 22.01.2014, on account of death of Dharamvir in a motor vehicular accident which took place on 28.11.2010. Appellant No. 1 is widow and appellant Nos.2 to 3 are parents of deceased Dharamvir.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 28.11.2010, Dharamvir (since deceased) along with Sunil and Surender (pillion rider) was going to attend the marriage of Sunil Kumar to Budhshaili, District Bhiwani on a motorcycle bearing registration No.RJ-18-SE-6676. Laxman Singh and his relatives were following them in a separate vehicle. At about 12.00 noon, when they reached Budhshaili turn on Rajgarh-Hisar road, a TATA 207

bearing registration No. HR-39-A-1785 being driven by respondent No.1- Jai Narain in a rash and negligent manner, came from the opposite side and struck against the motorcycle of Dharamvir, as a result of which, all the occupants of the motorcycle received injuries. Driver of the offending vehicle fled away from the place of accident. Later on, Dharamvir succumbed to the injuries. With regard to the accident, FIR No.179 dated 28.11.2010, under Sections 279/337/304-A IPC was registered at Police Station, Siwani against respondent No.1 on the statement of Laxman Singh. Consequently, the claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION AWARDED BY THE TRIBUNAL

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 and thus, returned the finding on issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of Laxman Singh (PW-2), who was an eye witness of the accident and on whose statement, FIR, Ex.P1 was registered.

Deceased-Dharamvir was serving as constable in SSB, Haryana and was getting salary to the tune of Rs.13,454/- per month. Out of this, 1/3rd amount was deducted towards his personal expenses. The dependency of claimants, thus, came to Rs.8970/- per month i.e. Rs.1,07,640/- per annum. As per postmortem report of deceased, he was 24 years of age at the time of accident/death and the multiplier of 18 was applied. Thus, the claimants were found entitled to compensation of Rs.19,37,520/- (Rs.1,07,640 x 18). In addition to it, Rs.20,000/- were awarded towards

funeral expenses, loss of estate and loss of love and affection. Ultimately, the claim petition was allowed and claimants were found entitled to Rs.19,57,520/- along with interest at the rate of 6% per annum from the date of filing of the petition till actual realization. Feeling dissatisfied with the impugned award, the claimants-appellants have preferred the present appeal.

REASSESSED COMPENSATION

I have heard learned counsel for the parties and perused the case file.

Parties are not in dispute with regard to finding given by the Tribunal on issue No.1 that the accident took place due to rash and negligent driving of offending vehicle by its driver-respondent No.1. 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	Rs.13,454/- per month
(ii)	50% of (i) above to be added as future prospects	13,454 + 6727 = Rs.20,181/-
(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	20,181 – 6727 = Rs.13,454/-
(iv)	Compensation after multiplier of 18 is applied	Rs.13,454/- x 12 x 18 = Rs.29,06,064/-
(v)	Compensation under conventional heads (funeral expenses etc.)	Rs.70,000/-

(vi)	TOTAL COMPENSATION AWARDED	Rs.29,76,064/-
(vii)	Enhanced amount of compensation	Rs.29,76,064 – 19,57,520 = Rs.10,18,544/-

The enhanced amount of compensation of **Rs.10,18,544/-** 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 allowed.

(RITU BAHRI)
JUDGE

13.03.2018
ajp

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