

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

**FAO No.6842 of 2015 (O&M)
Date of decision: 16.04.2018**

Smt. Jaspreet Kaur and others

....Appellants

Versus

Vijay Shanker Pandey and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sanjay Jain, Advocate,
for the appellants.

Mr. Suman Jain, 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, Ambala (hereinafter referred to as 'the Tribunal') vide award dated 06.07.2015, on account of death of Jagdeep Singh in a motor vehicular accident which took place on 19.05.2014. Appellant No.1 is widow, appellant Nos. 2 & 3 are children and appellant No.4 is mother of deceased Jagdeep Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 19.05.2014, at about 8.15 A.M., Jagdeep Singh (since deceased) was going from his village towards Ambala Cantt. on a motorcycle bearing registration No. HR-01-AE-8272.

His brother-Dalbir Singh and his friend were following him in a car. When

Jagdeep Singh reached in front of the showroom of Volkswagen Car on G.T. Road, Ambala City, in the meantime, a truck bearing registration No. HR-37-A-8154, being driven by respondent No.1-Vijay Shankar in a rash and negligent manner, came and hit the motorcycle from behind, as a result of which, Jagdeep Singh fell down on the road, came under the truck and died at the spot. With regard to the accident, an FIR 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 Jagdeep Singh 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 Dalbir Singh (PW-2), who was an eye witnesses of the accident and on whose statement, FIR Ex.P8 was registered. Claimants have further proved on record copy of charge sheet Ex.P2, report under Section 173 Cr.P.C. Ex.P3 and postmortem report Ex.P9.

In the absence of any documentary proof regarding earnings of the deceased, his income was assessed as Rs.6500/- per month i.e. Rs.78,000/- per annum, as that of a labourer, out of which, 1/4th amount was deducted towards personal expenses of the deceased. By doing so, remaining amount came to Rs.58,500/- per annum. The deceased was 35 years of age at the time of accident/death. Therefore, multiplier of 16 was applied. After applying the multiplier of 16, dependency of claimants (appellants) came to Rs.9,36,000/- (58,500 x 16). In addition to it,

Rs.25,000/- were awarded for last rites of deceased, Rs.50,000/- towards loss of love and affection and Rs.50,000/- for claimant No.1 as loss of consortium. Hence, appellant-claimants were found entitled to total compensation of Rs.9,61,000/- along with interest @ 7.5% 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.6500/- per month
(ii)	40% of (i) above to be added as future prospects	6500 + 2600 = Rs.9100/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	9100 – 2275 = Rs.6825/-
(iv)	Compensation after multiplier of 16 is applied	Rs.6825/- x 12 x 16 = Rs.13,10,400/-

(v)	Compensation under the conventional heads	Rs.70,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.13,80,400/-
(vii)	Enhanced amount of compensation	Rs.13,80,400 – 9,61,000 = Rs.4,19,400/-

The enhanced amount of compensation of **Rs.4,19,400/-** 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

16.04.2018
ajp

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