

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

**FAO No.7290 of 2015 (O&M)
Date of decision: 19.01.2018**

Ankit and another

....Appellants

Versus

Naresh Kumar Khatri and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sandeep Parkash Chahar, Advocate,
for the appellants.

Mr. Suvir Dewan, Advocate,
for respondent No.2-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, Rohtak (hereinafter referred to as 'the Tribunal') vide award dated 07.08.2015 on account of death of Sat Parkash in a motor vehicular accident which took place on 12.04.2014. Appellants are children of deceased Sat Parkash.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 12.04.2014, Sat Parkash (since deceased) along with his nephew namely Deepak and 5/6 other persons, was returning to his village (Sampla) from Bahadurgarh on Mahendra Max bearing registration No. HR-18-8137. The said vehicle was being driven by Sat Parkash himself. At about 6.30 P.M., when they reached

within the revenue estate of village Sampla, a car bearing registration No.

HR-12-R-3465 being driven by Naresh Kumar-respondent No.1 in a rash and negligent manner, came and hit Mahendra Max from behind, as a result of which, his vehicle over-turned, Sat Parkash received fatal injuries and died at the spot. With regard to the incident, FIR Ex.P2 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 been caused on account of rash and negligent driving of offending vehicle i.e. car by its driver-respondent No.1 and returned finding on issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of Rajesh Kumar (PW-2), who was eye witness of the accident and on whose statement, FIR Ex.P2 was registered.

In the absence of any documentary proof, income of the deceased was assessed as Rs.8000/- per month being, out of which, 1/3rd amount was deducted towards his personal expenses, which came to be Rs.5400/- per month. The deceased was in the age group of 41-45 years at the time of death/accident. Therefore, multiplier of 14 was applied. Accordingly, after applying the multiplier of 14, dependency of claimants came to Rs.9,07,200/- (5400 x 12 x 14). In addition to it, Rs.1,00,000/- was awarded on account of loss of love and affection and Rs.25,000/- as funeral expenses. Hence, the claimants were found entitled to total compensation of Rs.10,32,200/- 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-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. Finding of negligence has rightly been given by the Tribunal and it does not require any interference in this regard.

Keeping in view that the amount of compensation awarded by the Tribunal has already been released in favour of the appellants, this Court proceeds to modify the impugned Award qua future prospects only. The amount awarded by the Tribunal on account of funeral expenses and love & affection remains the same. 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.8000/- per month
(ii)	25% of (i) above to be added as future prospects	8000 + 2000 = Rs.10,000/-
(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	10,000 – 3333 = Rs.6667/-
(iv)	Compensation after multiplier of 14 is applied	Rs.6667/- x 12 x 14 = Rs.11,20,056/-
(v)	Compensation under conventional heads	Rs.1,25,000/- (as this amount has already been released in favour of appellants)

(vi)	TOTAL COMPENSATION AWARDED	Rs.12,45,056/-
(vii)	Enhanced amount of compensation	Rs.12,45,056 – 10,32,200= Rs.2,12,856/-

The enhanced amount of compensation of **Rs.2,12,856/-** 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 @ 9% 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 “*Kumari Kiran through her father Harinarayan vs. Sajjan Singh and others*”, 2015(1) SCC 539. 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

19.01.2018
ajp

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