

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

FAO No.6343 of 2016 (O&M)

Date of decision: 13.03.2018

Karamjit Kaur and others

....Appellants

Versus

Ajaib Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. A.S. Syan, Advocate,
for the appellants.

Mr. Vinod Gupta, 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, Patiala (hereinafter referred to as 'the Tribunal') vide award dated 21.04.2016, on account of death of Gursewak Singh in a motor vehicular accident which took place on 27.07.2015. Appellant No. 1 is widow, appellant Nos.2 to 4 children and appellant No.5 is mother of deceased Gursewak Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 27.07.2015, Gursewak Singh (since deceased) along with his daughter Navjot Kaur (pillion rider) was going on a motorcycle bearing registration No.PB-11-X-8149 towards Fatehgarh Sahib in connection with her admission in a college. When they reached near the canal bridge of village Adampur, a bus belonging to

Haryana Roadways bearing registration No. HR-64-9428 being driven by respondent No.1-Ajaib Singh in a rash and negligent manner, came from the opposite and struck the same in the motorcycle of Gursewak Singh in the process of overtaking some other vehicle. As a result of this accident, Gursewak Singh and Navjot Kaur fell down and received multiple injuries. They were taken to Civil Hospital, Fatehgarh Sahib, from where, they were referred to PGI, Chandigarh. Unfortunately, Gursewak Singh succumbed to the injuries received by him in the accident. With regard to the accident, FIR Ex.P1 was registered against respondent No.1. 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 (bus) 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 Simranjit Singh (PW-1), who was an eye witness of the accident and on whose statement, FIR, Ex.P1 was registered. Further, the claimants have proved on record certified copy of postmortem report of deceased as Ex.P2.

In the absence of any documentary proof, income of the deceased was taken as Rs.10,000/- per month, out of which, 1/4th amount was deducted towards his personal expenses. The dependency of claimants, thus, came to Rs.7500/- per month. Deceased-Som Parkash was 48 years of age at the time of accident/death and the multiplier of 13 was applied. Thus, the claimants were found entitled to compensation of Rs.11,70,000/- (Rs.7500 x 12 x 13). In addition to it, Rs.25,000/- were awarded towards

funeral expenses, Rs.1,00,000/- towards loss of love & affection and Rs.50,000/- to claimant No.1 as loss of consortium. Ultimately, the claim petition was allowed and claimants were found entitled to Rs.13,45,000/-. 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.10,000/- per month
(ii)	25% of (i) above to be added as future prospects	10,000 + 2500 = Rs.12,500/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	12,500 – 3125 = Rs.9375/-
(iv)	Compensation after multiplier of 13 is applied	Rs.9375/- x 12 x 13 = Rs.14,62,500/-
(v)	Compensation under conventional heads (funeral expenses etc.)	Rs.70,000/-

(vi)	TOTAL COMPENSATION AWARDED	Rs.15,32,500/-
(vii)	Enhanced amount of compensation	Rs.15,32,500 – 13,45,000 = Rs.1,87,500/-

The enhanced amount of compensation of **Rs.1,87,500/-** 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