

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-8996-2014

Date of decision: 22.05.2018

Gurvinder Kaur @ Gulvinder Kaur

...Appellant

V/s.

Pamma alias Paramjit Singh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: None for the appellant.

Mr. Rajneesh Malhotra, Advocate for insurance co.

RITU BAHRI, J. (Oral).

The claimant has come up in appeal against the award dated 04.04.2013 passed by Motor Accident Claims Tribunal, Karnal (for short 'the Tribunal') whereby she has been awarded a compensation of Rs.4,90,000/- on account of death of her daughter Raj Kaur alias Raj Rani who died in a road accident that took place on 12.09.2010.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 12.09.2010, Raj Kaur alias Raj Rani was going on a motor-cycle bearing registration No. PB-02AD-8107 driven by her brother namely Gurpartap Singh. Raj Kaur and her mother were pillion riders and when they reached in front of New bus stand, Nissing, a tractor Mohindra red colour along with trolley bearing registration No. HR-10B-7578 being driven by Pamma alias Paramjit Singh respondent No. 1 in a rash and negligent manner, came from the back side of the motor-cycle and struck against it. Due to the impact of the accident,

all the occupants of the motor-cycle fell down on the road alongwith the motor-cycle and received multiple and grievous injuries on various parts of their bodies. All the injured were taken to CHC, Nissing where the doctor declared Raj Kaur alias Raj Rani as dead and postmortem on her dead body was conducted. The claimant is the mother of the deceased Raj Kaur alias Raj Rani.

With regard to the alleged accident, an FIR (Ex.P4) was registered by Major Singh against the driver of the offending truck.

Consequently, the claimant-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

The parties are not in dispute with regard to finding on issue No. 1 that the accident took place on account of rash and negligent driving by respondent No. 1. This finding has been rightly given keeping in view that the FIR (Ex.P4) was registered against respondent No. 1. The claimants have also placed on record certified copy of report under Section 173 Cr.P.C. (Ex.P2), copy of site plan (Ex.P3) and copy of FIR (Ex.P4)

The deceased was unmarried and was 19 years of age as per postmortem report (Ex.P1). The Tribunal has assessed the compensation as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.4500
(ii)	½ deduction for personal expenses	4500-2250=2250
(iii)	Compensation after multiplier of 18 applied	2250 X 12 X 18=4,86,000
(iv)	Loss of estate	Rs.2,000/-
(v)	Funeral expenses	Rs.2,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs. 4,90,000/-

Hence, the claimants were found entitled to total compensation of Rs.4,90,000/- along with interest @ 7% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-appellant has preferred the present appeal.

REASSESSED COMPENSATION

The fact of accident is admitted and proved. Finding of negligence has rightly been given by the Tribunal and it does not require any interference on that account. 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, *National Insurance Company Limited Vs. Pranay Sethi and others*, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017) and the minimum wages prevalent in the State of Haryana in the year 2010:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.4500
(ii)	40% future prospects	4500+1800=6300
(iii)	½ deduction for personal expenses	6300-3150=3150
(iv)	Compensation after multiplier of 18 applied	3150 X 12 X 18=680400
(v)	Conventional head	Rs. 30,000
(vi)	TOTAL COMPENSATION AWARDED	Rs. 7,10,400/-
(vii)	ENHANCED AMOUNT OF COMPENSATION	Rs.7,10,400-4,90,000= Rs.2,20,400/-

The enhanced amount of compensation of Rs.2,20,400/- 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 V/s. The Oriental Insurance Company Ltd. and others in Civil Appeal No. 448 of 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

May 22, 2018
Divyanshi

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