

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

F.A.O No. 7426 of 2015 (O&M)

Date of decision:- 19.02.2018

Sushma Devi and Others

...Appellants

Versus

Vijay Pal and Others

...Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present: Ms. Bhavna Grewal, Advocate, for
Mr. Sandeep Kumar Yadav, Advocate,
for the appellant.

Mr. Sanjeev Goyal, Advocate,
for respondent No.3.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as 'the Tribunal') vide Award dated 30.07.2015, on account of death of Jaswant Singh in a motor vehicular accident which took place on 17.05.2014.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 17.05.2014, Suresh Kumar son of Nand Ram was going to Ateli on his cycle. At about 8.20 a.m., when he reached near the katcha path of village Trukiawas at Ateli turn, in the meanwhile a car being driven by its driver in a rash and negligent manner came from the side of Ateli Mandi and hit a motor cycle driver, who was going towards Ateli nearby the aforesaid car. As a result of which, car turned turtle on the cycle, due to which he along with cycle came under the

car and sustained injuries. Passerby took him out. Thereafter he, passerby and Mukhtayar took care of Jaswant Singh driver of motor cycle bearing registration No. HR-35F-0824, in the meanwhile driver of car along with car on finding chance fled away from the spot towards Rewari. Jaswant Singh died on the spot due to injuries sustained on his person and neck in the accident. On inquiry, the number of car was found as HR-99-MFT-3897. The matter was reported to the Police and in this regard FIR Ex. PW1/A under Sections 279/337/304A IPC was registered against unknown driver of car. The present accident has taken place due to rash and negligent driving of respondent No.1. Consequently, claimants-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 respondent No.1 while driving offending vehicle. At the time of death, deceased was 22 years old. He was student of ITI Chandpura and by doing animal husbandry work and diary farming as well as by assisting his parents in agriculture work was earning Rs.15,000/- per month.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimant. Tribunal took income of the deceased Jaswant Singh as of a labourer @ Rs.4,800/- per month. As he was unmarried, therefore, after deducting 50% income from the same towards personal expenses. Hence, compensation awarded by the Tribunal as under :

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.4800/- per month
(ii)	50% deducted towards personal expenses	Rs.4800-2400=2,400/- P.M.
(iii)	Multiplier applied	Rs.2400X12X18=5,18,400/-
(iv)	Compensation towards Transporation and last rites	Rs.15,000/-
	Total Compensation Awarded	Rs.5,33,400/-(round figure Rs.5,33,500/-)

Feeling dissatisfied with the impugned award, the claimants-appellants have preferred the present appeal.

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

REASSESSED COMPENSATION

The fact of accident is admitted and proved. In the peculiar facts and circumstances of the case, to meet the ends of justice and compensation awarded by the Tribunal requires to be reassessed keeping in view the judgments passed by Hon'ble the Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017)***, Income taken by the Tribunal i.e. Rs.4,800 which is on lower side as per the Minimum Wages Act 2014 and the same required to be reassessed as per the law prevalent at that time. As per the Minimum wages Act, Haryana, minimum salary was Rs. 5500/- at the time of death of Jaswant Singh therefore, this Court take income of the deceased as Rs. 6000/-being a skilled worker and reassessed amount of compensation as per the above sited judgment as under:

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.6000/- per month
(ii)	50% deducted towards personal expenses	Rs.6000-3000=3000/- P.M.
(iii)	40% added towards future prospects	Rs. 3000+1200=4200/-
(iv)	Multiplier applied	Rs.4200X12X18=9,07,200/-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(iv)	Compensation towards conventional heads	Rs.30,000/-
	Total Compensation Awarded	Rs.9,37,200/-
	Enhanced amount of compensation	Rs. 9,37,200-5,33,500=4,03,700/-

The enhanced amount of compensation of **Rs.4,03,700/-/-** shall be payable within a period of two months from the date of receipt of certified copy of this order. As per the judgment of Hon'ble Supreme Court in case **Shri Nagar Mal and Ors versus The Oriental Insurance Company Ltd. And Ors decided on 19.01.2018** , the enhanced amount of compensation shall carry interest @ 7.5% per annum from the date of filing of the claim petition, till its realization.

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.

19.02.2018

(RITU BAHRI)
JUDGE

Riya Grover

Whether speaking/reasoned

Whether reportable

Yes

No