

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

**FAO No.7710 of 2015 (O&M)
Date of decision: 17.04.2018**

Smt. Simpi and others

....Appellants

Versus

Hawa Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Gurinder Pal Singh, 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 claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Rewari (hereinafter referred to as 'the Tribunal') vide award dated 03.01.2015, on account of death of Dayanand in a motor vehicular accident which took place on 02.08.2013. Appellant No.1 is widow, appellant Nos.2, 3 and 5 are children and appellant No.4 is mother of deceased Dayanand.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 02.08.2013, at about 11.00 P.M., Dayanand (since deceased) was going on foot from bus-stand, Kosli towards his house. When he reached near Panchayat Bhawan of his village, a TATA Indigo car bearing registration No. HR-47-B-7872 being driven by Hawa Singh-respondent No.1 in a rash and negligent manner, came and hit

him, as a result of which, he (Dayanand) fell on the road, received serious injuries and died at the spot. With regard to the accident, FIR No.157 dated 03.08.2013, under Sections 279/304-A IPC was registered at Police Station, Kosli 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 Dayanand 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 Ved Parkash (PW-2), who was an eye witnesses of the accident. Claimants have further proved on record copy of FIR Ex.P1, charge sheet Ex.P3, report under Section 173 Cr.P.C. Ex.P4.

In the absence of any documentary proof regarding earnings of the deceased, his income was assessed as Rs.6000/- per month i.e. Rs.72,000/- 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.54,000/- per annum. As per postmortem report, 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.8,64,000/- (54,000 x 16). In addition to it, Rs.25,000/- were awarded on account of funeral expenses, Rs.5000/- towards loss of estate and Rs.1,00,000/- to claimant No.1 (widow) towards loss of consortium. Hence, appellant-claimants were found entitled to total compensation of Rs.9,94,000/- along with interest @ 6%

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. 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.6000/- per month
(ii)	40% of (i) above to be added as future prospects	6000 + 2400 = Rs.8400/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	8400 – 2100 = Rs.6300/-
(iv)	Compensation after multiplier of 16 is applied	Rs.6300/- x 12 x 16 = Rs.12,09,600/-
(v)	Compensation under the conventional heads	Rs.70,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.12,79,600/-
(vii)	Enhanced amount of compensation	Rs.12,79,600 – 9,94,000 = Rs.2,85,600/-

The enhanced amount of compensation of **Rs.2,85,600/-** 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

17.04.2018
ajp

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