

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

**FAO No.701 of 2016 (O&M)
Date of decision: 07.05.2018**

Manpreet Kaur and others

....Appellants

Versus

Bhim Singh and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. J.S. Moudgill, Advocate,
for the appellants.

Mr. Salinder Kumar Saini, Advocate,
for respondent No.1.

Mr. Anupam Singla, Advocate,
for respondent No.2.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Mansa (hereinafter referred to as 'the Tribunal') vide award dated 04.11.2015, on account of death of Jai Singh alias Rai Singh in a motor vehicular accident which took place on 03.12.2014. Appellant No.1 is widow and appellant Nos. 2 & 3 are children of deceased Jai Singh alias Rai Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 03.12.2014, at about 9.00

A.M., Jai Singh alias Rai Singh (since deceased) along with Nirmal Singh

was going from Budhlada to village Dodra on a motorcycle bearing

registration No. PB-31-D-3463. When they reached near village Chak Bhaike on main Budhlada-Sunam road, a PRTC bus bearing registration No. PB-31-F-8419, being driven by respondent No.1-Bhim Singh in a rash and negligent manner, came from the opposite side and struck against the motorcycle of Jai Singh alias Rai Singh, as a result of which, he (Jai Singh alias Rai Singh) received multiple grievous injuries and died at the spot. With regard to the accident, FIR No.87 dated 03.12.2014, under Sections 279/304-A IPC was registered against respondent No.1 at Police Station, Sadar, Budhlada, on the statement of Nirmal Singh. 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 Jai Singh @ Rai Singh 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 Nirmal Singh (PW-1), who was an eye witness of the accident and on whose statement, the FIR Ex.P1 was registered. The claimants have also proved on record death certificate of Jai Singh Ex.P2 and copy of postmortem report Ex.P3.

Tribunal has observed that the deceased was working as driver with the Kalgidhar Trust, Baru Sahib and was getting salary of Rs.7500/- per month. Therefore, his income was assessed as Rs.7500/- per month i.e. Rs.90,000/- per annum. Out of this, 1/3rd amount was deducted towards personal expenses of the deceased, which came to Rs.60,000/- per annum (90,000 – 30,000). As per postmortem report, deceased was 30-35 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.9,60,000/- (60,000 x 16). In addition to it, Rs.30,000/- were awarded on account of mental and physical loss due to untimely death of deceased and Rs.30,000/- as funeral expenses Hence, appellant-claimants were found entitled to total compensation of Rs.10,20,000/- along with interest @ 6% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-appellant has 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.7500/- per month
(ii)	40% of (i) above to be added as future prospects	7500 + 3000 = Rs.10,500/-

(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	10,500 – 3500 = Rs.7000/-
(iv)	Compensation after multiplier of 16 is applied	Rs.7000/- x 12 x 16 = Rs.13,44,000/-
(v)	Compensation under the conventional heads	Rs.70,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.14,14,000/-
(vii)	Enhanced amount of compensation	Rs.14,14,000 – 10,20,000 = Rs.3,94,000/-

The enhanced amount of compensation of **Rs.3,94,000/-** 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

07.05.2018
ajp

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