

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

**FAO No.7193 of 2016 (O&M)
Date of decision: 14.03.2018**

Om Parkash

....Appellant

Versus

Rajbir and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. S.S. Duhan, Advocate,
for the appellant.

Mr. Rajneesh Malhotra, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Jind (hereinafter referred to as 'the Tribunal') vide award dated 06.03.2014, on account of death of Rakesh in a motor vehicular accident which took place on 15.01.2013. Appellant is father of deceased Rakesh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 15.01.2013, at about 3.00 P.M., Rakesh (since deceased) along with his brother Vijay was going from Jint towards village Gulkani on their separate motorcycles. Rakesh was driving motorcycle bearing registration No.HR-20-J-5934, where his brother Vijay was following him. When they reached one kilometer ahead of village Ramrai, in the meantime, a truck bearing registration No. HR-56-

4251, being driven by respondent No.1-Rajbir in a rash and negligent manner, came from the side of Hansi and struck against the motorcycle of Rakesh, as a result of which, he suffered multiple, grievous injuries and died at the spot. With regard to the incident, FIR No.16 dated 15.01.2013, under Sections 279, 337 and 304-A IPC was registered at Police Station, Sdar, Jind against driver of offending truck. Consequently, the claimant-appellant 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 Rakesh 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 Vijay (PW-2), who was an eye witness of the accident and on whose statement, FIR Ex.P1 was registered. Further, the claimants have proved on record copy of postmortem report, Ex.P3.

In the absence of any documentary proof, income of the deceased was assessed as Rs.1,00,000/- per annum. Out of this, one-half amount was deducted towards his personal expenses. By doing so, remaining amount came to Rs.50,000/- per annum. The deceased was 27 years of age at the time of accident/death. He was unmarried. Tribunal has applied the multiplier of 18. The dependency of claimants came to Rs.9,00,000/- (50,000/- x 18). In addition to this, Rs.50,000/- were awarded on account of loss of love and affection, Rs.5000/- as loss of estate and Rs.25,000/- towards funeral expenses etc. Hence, the claimants were found entitled to total compensation of Rs.9,80,000/- along with interest @ 9% 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. 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.1,00,000/- per annum
(ii)	40% of (i) above to be added as future prospects	1,00,000 + 40,000 = Rs.1,40,000/-
(iii)	50% of (ii) above is deducted as personal expenses of the deceased	1,40,000 – 70,000 = Rs.70,000/-
(iv)	Compensation after multiplier of 17 is applied	Rs.70,000/- x 17 = Rs.11,90,000/-
(v)	Compensation under the conventional heads	Rs.30,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.12,20,000/-
(vii)	Enhanced amount of compensation	Rs.12,20,000 – 9,80,000 = Rs.2,40,000/-

The enhanced amount of compensation of **Rs.2,40,000/-** 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 (arising out of SLP (C) No.26853 of 2016) decided on 19.01.2018.” Remaining conditions of disbursal shall remain the same.

Accordingly, the award stands modified to the above extent and the present appeal is allowed.

(RITU BAHRI)
JUDGE

14.03.2018
ajp

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