

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

FAO-8406-2015 (O&M)

Date of decision: 02.05.2018

Zahira Ahmad (deceased through LRs) and others ...Appellants

V/s.

Dalip Kumar Pandey and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Ashwani Arora, Advocate for the appellants.

Mr. Rajesh K. Sharma, Advocate  
for respondent No. 3-insurance co.

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**RITU BAHRI, J. (Oral).**

**CM-26522-CII-2015**

For the reasons mentioned in the application, delay of 708 days  
in refiling the appeal is condoned.

Application stands disposed of.

**CM-26523-CII-2015**

For the reasons mentioned in the application, delay of 03 days  
in filing the appeal is condoned.

Application stands disposed of.

**FAO-8406-2015**

This appeal has been filed by the claimant-appellants seeking  
enhancement of compensation awarded by Motor Accident Claims Tribunal,  
Chandigarh (hereinafter referred to as 'the Tribunal') vide award dated  
18.05.2013 on account of death of Mumtaz Ahmad in a motor vehicular

accident which took place on 03.12.2009. Appellants are the father and brothers of the deceased.

**FACTS NOT IN DISPUTE**

Brief facts of the case are that Mumtaz Ahmad who died in a road accident which took place on 03.12.2009. He was going from Sector 18, Chandigarh to Baltana while sitting in a Honda City car bearing registration No. CH03-Z-4408 being driven by Mohit Khanna. When they reached Chandigarh-Zirakpur barrier at that time a truck trolla bearing registration No. HR55-E-9041 in a rash and negligent manner came from the katcha portion of the road and struck against his car and they were burnt to death.

With regard to the alleged accident, FIR No. 272 dated 04.12.2009 under Section 304-A of the IPC, Police Station Zirakpur, District SAS Nagar on the basis of the statement made by Parminder Singh son of Utam 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 been caused on account of rash and negligent driving of offending vehicle i.e. Truck Trolla by its driver-respondent No.1 Dalip Kumar Pandey and returned finding on issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of PW-3 Parminder Singh, who was eye witness of the accident. Further the claimants have placed on record post mortem report Ex.P-1, voter identity card Ex.P2.

In the absence of any documentary evidence to prove the salary as Rs.10,000/- p.m., the Tribunal had assessed Rs.5,000/- p.m. The deceased was 30 years old and was unmarried. 30% was added as future prospects and hence the gross income of the deceased was assessed at Rs. 6,500/- and 50% was deducted towards his personal expenses. The Tribunal had applied the multiplier of 9, dependency of claimants came to Rs.3,60,000/- (3250X12X9)+Rs.5,000/- as funeral charges. Hence, the claimants were found entitled to total compensation of Rs.3,56,000/- along with interest @ 7% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-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. 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 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.5,000/- per month |
| (ii)    | 40% of (i) above to be added as future prospects | 5,000+2,000=7,000    |

|       |                                                                    |                                             |
|-------|--------------------------------------------------------------------|---------------------------------------------|
| (iii) | 50% of (ii) above is deducted as personal expenses of the deceased | 7,000-3,500=3500                            |
| (iv)  | Compensation after multiplier of 17 applied                        | 3,500 X 12 X 17=7,14000/-                   |
| (v)   | Compensation under conventional heads                              | Rs.30,000/-                                 |
| (vi)  | <b>TOTAL COMPENSATION AWARDED</b>                                  | <b>Rs. 7,44,000/-</b>                       |
| (vii) | <b>ENHANCED AMOUNT OF COMPENSATION</b>                             | <b>Rs.7,44,000-3,56,000 = Rs.3,88,000/-</b> |

The enhanced amount of compensation of **Rs.3,88,000/-** 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 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 02, 2018  
Divyanshi

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