

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

Date of decision: 16.04.2018

1. FAO No.1522 of 2017 (O&M)

National Insurance Company Ltd.

....Appellant

Versus

Kiranjeet Kaur @ Kiranjit Kaur and others

....Respondents

2. FAO No.1192 of 2017 (O&M)

Kiranjeet Kaur @ Kiranjit Kaur and others

....Appellants

Versus

Balvir Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Harjinder Singh, Advocate,
for the appellant (in FAO-1522-2017) and
for respondent No.3-Insurance Company (in FAO-1192-2017).

Mr. Ashok Jindal, Advocate,
for the appellants-claimants (in FAO-1192-2017) and
for respondent Nos.1 to 6 (in FAO-1522-2017).

Mr. Aseem Kataria, Advocate, for respondent No.7.

RITU BAHRI J. (Oral)

CM No.5081-CII of 2017

In view of the averments mentioned in the application, same is
allowed and delay of 05 days in filing of the appeal is condoned.

FAO No.1522 of 2017

This judgment will dispose of FAO Nos.1522 and 1192 of 2017

together as both have arisen out of one judgment.

National Insurance Company Ltd. has filed FAO No.1522 of 2017 against the award dated 02.11.2016 passed by the Motor Accident Claims Tribunal, Bathinda (hereinafter referred to as 'the Tribunal') whereby compensation of Rs.18,36,000/- has been awarded in favour of claimants-respondent Nos. 1 to 6 on account of death of Harpreet Singh in a motor vehicular accident which took place on 09.06.2015. Respondent No. 1 is widow, respondent Nos.2 & 3 are children, respondent Nos.4 & 5 are parents and respondent No.6 is sister of deceased Harpreet Singh.

On the other hand, claimants (widow, children, parents and sister of deceased) have filed FAO No.1192 of 2017 seeking enhancement of compensation awarded by the Tribunal vide aforesaid Award dated 02.11.2016.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 09.06.2015, Harpreet Singh (since deceased) along with cleaner Amritpal Singh was going from Malsian, Kapurthala to Sirsa on a Bolero Pick-up bearing registration No. PB-10-EH-3943. The said vehicle was being driven by Harpreet Singh. At about 3.00 A.M., when they reached near petrol pump of Khairekan, District Sirsa, a bus bearing registration No. RJ-01-PA-3358 being driven by Balvir Singh (respondent No.1 in claim petition) in a rash and negligent manner, came from the opposite side and struck against the Bolero Pick-up, as a result of which, Harpreet Singh and Amritpal Singh received injuries and died at the spot. With regard to the accident, FIR No.177 dated 09.06.2015 was registered at Police Station, Sadar, Sirsa against driver of the offending bus namely Balvir Singh on the statement of Gurpreet Singh. Consequently, the claimants 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 Balvir Singh (respondent No.1 in claim petition) and thus, returned the finding on issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of Gurpreet Singh (CW-1), who was eye witnesses of the accident and on whose statement, FIR Ex.C1 was registered.

The Tribunal has further observed that claimant No.4-Bhola Singh, who was father of deceased Harpreet Singh, could not prove his dependency upon the deceased. Therefore, claim petition qua claimant No.4 (father) stood dismissed. The remaining claimants being widow, minor children, sister and mother of deceased, were held entitled for the compensation.

In the absence of any documentary proof, income of deceased was taken as Rs.6500/- per month i.e. Rs.78,000/- per annum as that of a labourer. Out of this income, 1/3rd was deducted towards personal expenses of deceased, which came to Rs.52,000/- per annum. In this amount, 50% was added towards future prospects. Accordingly, annual dependency of claimants came to Rs.78,000/- (Rs.52,000 + 26,000). Harpreet Singh was 28 years of age at the time of accident/death and multiplier of 17 was applied. After applying the multiplier, claimants were found entitled to compensation of Rs.13,26,000/- (78,000 x 17). In addition to it, Rs.1,00,000/- each were awarded to claimant Nos.1, 2, 3, 5 and 6 on account of loss of consortium and love & affection. A sum of Rs.10,000/- was awarded on account of funeral expenses. Hence, claimant Nos.1, 2, 3, 5

& 6 were found entitled to a total compensation of Rs.18,36,000/- along with interest @ 7.5% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the Insurance Company as well as claimants have preferred the present appeals.

The Insurance Company-appellant is not challenging the finding given by the Tribunal on issue No.1 that the accident had taken place on account of rash and negligent driving of offending vehicle by its driver. Learned counsel for the Insurance Company has argued that in the present case, 50% addition has been made in the income of deceased on account of future prospects, which is on the higher side. Further, the Tribunal has wrongly awarded Rs.1,00,000/- each to claimant Nos.1, 2, 3, 5 and 6 on account of loss of consortium and loss of love and affection respectively. With these arguments, learned counsel for Insurance Company prays that the amount of compensation is liable to be reduced and impugned award may be modified accordingly.

On the other hand, learned counsel for claimants has argued that the compensation awarded is on the lower side.

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. There is no dispute with regard to the finding given by Tribunal on issue No.1 that the accident had taken place on account of rash and negligent driving of the offending bus by its driver-Balvir Singh.

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 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, 2017 SCC 1270, as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.6500- per month
(ii)	40% of (i) above to be added as future prospects	6500 + 2600 = Rs.9100/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	9100 – 2275 = Rs.6825/-
(iv)	Compensation after multiplier of 17 is applied	Rs.6825/- x 12 x 17 = Rs.13,92,300/-
(v)	Compensation under the conventional heads	Rs.70,000/-
(vi)	Total Compensation awarded	Rs.14,62,300/-

The amount of compensation of **Rs.14,62,300/-** shall be payable within a period of two months from the date of receipt of certified copy of this order. The 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 impugned award stands modified to the above extent and the present appeals stand disposed of accordingly.

(RITU BAHRI)
JUDGE

16.04.2018
ajp

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