

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

**FAO No.8721 of 2015 (O&M)
Date of decision: 16.05.2018**

Noor Mohammad and others

....Appellants

Versus

Saddam and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Arjun Atri, Advocate,
for the appellants.

Ms. Vandana Malhotra, 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, Mewat (hereinafter referred to as 'the Tribunal') vide award dated 04.03.2015, on account of death of Smt. Abida in a motor vehicular accident which took place on 31.08.2010. Appellant No.1 is husband and appellant Nos. 2 to 5 are children of deceased Abida.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 31.08.2010, after taking straw from the fields, Abida (since deceased) along with Habbi @ Habib was returning towards her house along. At about 2.30 P.M., when she reached Pachgaon road towards village Buraka, in the meantime, a vehicle bearing registration No.HR-27-J-0837, being driven by respondent No.1-Saddam in

a rash and negligent manner came and hit Abida from backside, as a result of which, tyre of the vehicle (truck) crossed over her abdomen. She was shifted to PHC, Tauru by her family members, where she died. With regard to the accident, FIR Ex.P1 was registered against respondent No.1 at Police Station, Tauru. 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 Abida 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 Tahir (PW-1), who was an eye witness of the accident. The claimants have also proved on record copy of FIR Ex.P1 and report under Section 173 Cr.P.C. as Ex.P3.

The deceased was doing household works. Apart from this, she was also working as agriculturist. However, in the absence of any documentary proof, income of the deceased was taken as Rs.3000/- per month i.e. Rs.36,000/- per annum. Out of this, 1/4th amount was deducted towards personal expenses of the deceased, which came to Rs.27,000/- per annum (36,000 – 9000). The deceased was 25 years of age at the time of accident/death. Therefore, multiplier of 17 was applied. After applying the multiplier of 17, dependency of claimants (appellants) came to Rs.4,59,000/- (27,000 x 17). In addition to it, Rs.20,000/- were awarded on account of consortium, love and affection and funeral expenses. Hence, appellant-claimants were found entitled to total compensation of

Rs.4,79,000/- 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. 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. As per claimants, accident in question took place when deceased-Abida was coming back from the fields along with straw. It means, she used to work in the fields. Therefore, her notional income has to be assessed keeping in view the fact that she used to do the household work as well as the work of an agriculturist (daily wager). Therefore, as per minimum wages, notional income of the deceased is being assessed as Rs.4348/- per month, rounded off Rs.4500/- per month plus Rs.3000/- per month (as a housewife), which comes to Rs.7500/- per months. 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, **National Insurance Company Limited Vs. Pranay Sethi and others**, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017) and this Court in **FAO No.218 of 2014, United India Insurance Company Limited vs. Sube Singh and others**, decided on

15.01.2014,as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.7500/- per month
(ii)	Compensation after multiplier of 18 is applied	Rs.7500/- x 12 x 18 = Rs.16,20,000/-
(iii)	Compensation under the conventional heads	Rs.30,000/-
(iv)	TOTAL COMPENSATION AWARDED	Rs.16,50,000/-
(v)	Enhanced amount of compensation	Rs.16,50,000 – 4,79,000 = Rs.11,71,000/-

The enhanced amount of compensation of **Rs.11,71,000/-** 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

16.05.2018
ajp

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