

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

**FAO No.876 of 2015 (O&M)
Date of decision: 12.01.2018**

Smt. Krishna and others

....Appellants

Versus

Sube Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. J.P. Sharma, Advocate,
for the appellants.

Mr. Rajneesh 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, Narnaul (hereinafter referred to as 'the Tribunal') vide award dated 18.10.2014 on account of death of Rohtash in a motor vehicular accident which took place on 29.04.2013. Appellant No.1 is widow, appellant Nos.2 to 4 are children and appellant No.5 is mother of deceased Rohtash.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 29.04.2013, Rohtash (since deceased) was returning to his village Totaheri from his work at village Baproli on a motorcycle bearing registration No. HR-35-F-2302. At about 7.30 P.M., when he reached near the hills of village Raghunathpura, a truck bearing registration No. HR-66-4619 being driven by Sube Singh-

respondent No.1 in a rash and negligent manner, came from the opposite

side and struck against his motorcycle, as a result of which, Rohtash fell down on the road and received serious injuries. One Ramavtar son of Sarjeet took him to General Hospital, Narnaul, from where he was referred to PGIMS, Rohtak and during treatment, he succumbed to the injuries on 30.04.2012. The accident was witnessed by Lala Ram son of Jia Ram and Natha Ram son of Nand Ram, residents of Raghunathpura. With regard to the incident, FIR No. 162 dated 30.04.2012, under Sections 279/304-A IPC was registered at Police Station, City, Narnaul against respondent No.1. 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 contributory negligence of drivers of both the vehicle i.e. deceased and respondent No.1. This finding was rightly given on the basis of deposition of Ram Avtar (PW-3) and Raj Kumar (PW-5), who were eye witnesses of the accident. Further the claimants have proved copy of FIR Ex.PW1/B and copy of report under Section 173 Cr.P.C. Ex.PW7/D.

In the absence of any documentary proof, income of the deceased was assessed as Rs.4800/- per month as per minimum wages prevalent at that time, out of which, 1/10th amount was deducted towards his personal expenses, which came to be Rs.4320/- per month i.e. Rs.51,840/- per annum. The deceased was 43 years of age at the time of death/accident. Accordingly, multiplier of 14 was applied. After applying the multiplier of 14, dependency of claimants came to Rs.7,85,764/- (51,840/- x 14). In addition to it, Rs.30,000/- were awarded on account of transportation & last

rites, Rs.1,00,000/- to claimant No.1 as loss of consortium and Rs.20,000/- for loss of love and affection. Hence, the claimants were found entitled to total compensation of Rs.9,35,764/- along with interest @ 9% per annum from the date of filing of the petition till realization. Liability to pay the compensation amount was ordered to be shared to the extent of 75% by respondent Nos.1 to 3 and 25% by claimants-appellants jointly and severally. 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 contributory negligence has been rightly given by the Tribunal and it does not require any modification 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.4800/- per month
(ii)	25% of (i) above to be added as future prospects	4800 + 1200 = Rs.6000/-
(iii)	1/10 th of (ii) above is deducted as personal expenses of the deceased	6000 – 600 = Rs.5400/-

(iv)	Compensation after multiplier of 14 is applied	Rs.5400/- x 12 x 14 = Rs.9,07,200/-
(v)	Compensation under conventional heads	Rs.70,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.9,77,200/-
(vii)	Enhanced amount of compensation	Rs.9,77,200 – 9,35,764= Rs.41,436/-

The enhanced amount of compensation of **Rs.41,436/-** 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 @ 9% 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 “*Kumari Kiran through her father Harinarayan vs. Sajjan Singh and others*”, 2015(1) SCC 539. 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

12.01.2018
ajp

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