

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-2018-2017 (O&M)

Date of decision: 09.05.2018

Kamla Devi and others

...Appellants

V/s.

Kamlesh Kumar and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Madan Pal, Advocate for the appellants.

Mr. Vinod Gupta, Advocate for
respondent No. 3-insurance co.

RITU BAHRI, J. (Oral).

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal') vide award dated 30.04.2016 on account of death of Sewa Ram in a motor vehicular accident which took place on 19.09.2014. Appellant No. 1 is the widow of the deceased while others are the children of the deceased.

FACTS NOT IN DISPUTE

Brief facts of the case are that Sewa Ram who died in a road accident which took place on 19.09.2014. He was coming to Karnal from his village Shamgarh on his motorcycle bearing No. HR05X-9910 at moderate speed, when he reached near Karan Dairy, village Dadupur, a truck bearing registration No. HP72-2033 driven by respondent No. 1 rashly and negligently came and hit against the motorcycle of the deceased from

backside which resulted into serious injuries and finally he died on 19.09.2014. With regard to the alleged accident, an FIR No. 248 dated 19.09.2014 under Sections 279 and 304-A of the IPC, Police Station Taraori, Karnal was registered 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 rash and negligent driving of offending vehicle i.e. truck by its driver-respondent No.1 Kamlesh Kumar and returned finding on issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of PW 2 Sunil Kumar, who was eye witness of the accident. Further the claimants have placed on record Ex. P2 registration certificate of motor cycle, Ex.P5 certified copy of FIR. Ex. P6 attested copy of postmortem report of deceased. Ex. P8 copy of driving license of deceased.

In the absence of sufficient documentary evidence to prove the salary as Rs.20,000/- p.m., the Tribunal had assessed Rs.8,100/- p.m. and the annual income of the deceased came to be Rs.97200 (Rs.8100 X 12). The deceased was 45 years old and was married. 1/3rd amount was deducted towards his personal expenses, which came to be Rs.64800 p.a.(97200/3=32400 and then 97200-32400). The Tribunal had applied the multiplier of 14, dependency of claimants came to Rs.9,07,200/- (64800X14), Rs.1,00,000 for love and affection and consortium, Rs.1,00,000 for love and affection, Rs.3,000 for transportation charges and Rs.11,000 for funeral expenses. Hence, the claimants were found entitled to total compensation of Rs.11,21,200/- 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.8100/- per month
(ii)	25% of (i) above to be added as future prospects	8100+2025=10125
(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	10125-3375=6750
(iv)	Compensation after multiplier of 14 applied	6750 X 12 X 14=1134000/-
(v)	Compensation under conventional heads	Rs.70,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs. 12,04,000/-
(vii)	ENHANCED AMOUNT OF COMPENSATION	Rs.12,04,000-11,21,200 = Rs.82,800/-

The enhanced amount of compensation of **Rs.82,800/-** 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 09, 2018
Divyanshi

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