

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

**FAO No.242 of 2017 (O&M)
Date of decision: 14.03.2018**

Balwinder Kaur and othersAppellants
Versus

Sukhdev Singh and othersRespondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Ms. Jasleen Kaur Chandhok, 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 claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Jalandhar (hereinafter referred to as 'the Tribunal') vide award dated 06.05.2016, on account of death of Jaspreet Singh in a motor vehicular accident which took place on 27.08.2014. Appellant No. 1 is widow and appellant Nos.2 & 3 are children of deceased Jaspreet Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 27.08.2014, at about 9.00 A.M., Gurpreet Singh son of Manpreet Singh, who used to supply bread on his TATA ACE Jeep, was returning towards his house after supplying breads. When he was going from Pathankot Road on service road towards Reru village, at that time, Jaspreet Singh (since deceased) was going ahead of him on his scooter bearing registration No. PB-08-R-7215. When Jaspreet Singh reached near DD Floor Mill, a Truck bearing registration No. PB-02-AX-7577, being driven by respondent No.1-Sukhdev Singh in a rash

and negligent manner, came from the opposite side and struck against the

scooter, as a result of which, Jaspreet Singh fell down on the road and suffered multiple injuries. His scooter was also damaged. Driver of the offending truck ran away from the spot along with his vehicle. Jaspreet Singh was taken to Satyam Hospital, Jalandhar, where he succumbed to the injuries on 28.08.2014. With regard to the accident, FIR No.140 dated 27.08.2014, under Sections 279/337/338/427 IPC was registered at Police Station, Division No.8, Jalandhar against respondent No.1 on the statement of Gurpreet Singh. Consequently, the claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION AWARDED BY THE TRIBUNAL

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 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 (PW-2), who was an eye witness of the accident and on whose statement, FIR, Ex.C6 was registered.

Deceased-Jaspreet Singh was an employee of The Jalandhar Central Cooperative Bank Limited, Industrial Area, Branch Jalandhar and as per Ex.R5, he was getting gross salary of Rs.41,109/- and his net pay, after deducting Provident Fund, was Rs.36,779/- per month. Accordingly, his income was taken as Rs.36,779/- per month. Out of this, 1/3rd amount was deducted towards his personal expenses. The dependency of claimants, thus, came to Rs.24,519.33 Ps per month i.e. Rs.2,94,231.96 Ps. per annum. The deceased was 43 years of age at the time of accident/death and the multiplier of 14 was applied. Thus, the claimants were found entitled to compensation

of Rs.41,19,247.44 Ps. (Rs.2,94,231.96 Ps. x 14). In addition to it, Rs.50,000/- were awarded towards loss of love and affection, Rs.10,000/- towards funeral expenses and Rs.50,000/- to claimant No.1 as loss of consortium. Ultimately, the claim petition was allowed and claimants were found entitled to Rs.42,74,842/- along with interest at the rate of 7.5% per annum from the date of filing of the petition till actual realization. Feeling dissatisfied with the impugned award, the claimants-appellants have preferred the present appeal.

REASSESSED COMPENSATION

I have heard learned counsel for the parties and perused the case file.

Parties are not in dispute with regard to finding given by the Tribunal on issue No.1 that the accident took place due to rash and negligent driving of offending vehicle by its driver-respondent No.1. The fact of accident is admitted and proved. It stands established that the deceased has died as a result of the accident. Keeping in view the judgment passed by Hon'ble the Supreme Court in **Vimal Kanwar and others vs. Kishore Dan and others**, 2013 (2) RCR (Civil) 945, the provident fund is to be treated as part of the salary of an employee. As per salary slip for the month of July, 2014, gross salary of deceased was Rs.41,109/- per month. Therefore, calculation has to be done by taking the income of deceased as Rs.41,109/- rounded off Rs.41,200/- per month. 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 **Vimal Kanwar's** case (supra), **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.41,200/- per month
(ii)	30% of (i) above to be added as future prospects	41,200 + 12,360 = Rs.53,560/-
(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	53,560 – 17,853 = Rs.35,707/-
(iv)	Compensation after multiplier of 14 is applied	Rs.35,707/- x 12 x 14 = Rs.59,98,776/-
(v)	Compensation under conventional heads (funeral expenses etc.)	Rs.70,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.60,68,776/-
(vii)	Enhanced amount of compensation	Rs.60,68,776 – 42,74,842 = Rs.17,93,934/-

The enhanced amount of compensation of **Rs.17,93,934/-** 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 (arising out of SLP (C) No.26853 of 2016) 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 allowed.

14.03.2018
ajp

(RITU BAHRI)
JUDGE