

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

**FAO No.2654 of 2017 (O&M)
Date of decision: 21.02.2018**

Vivek Mehta and another

....Appellants

Versus

Haryana Roadways and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ajay Jain, Advocate,
for the appellants.

Mr. Vinod Gupta, 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 08.11.2016 on account of death of Dyal Chand Mehta in a motor vehicular accident which took place on 15.12.2014. Appellants are children of deceased-Dayan Chand Mehta.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 15.12.2014, at about 8.00 A.M., Dayal Chand Mehta (since deceased) was going from Narnaul to Palwal in a Maruti Swift Dezire car bearing registration No. HR-35-H-3130 for attending the marriage function of his relative. When the said car reached near Arawali Filling Station, Village Pali, Tehsil and District

being driven by respondent No.2 in a rash and negligent manner, came from the opposite side and struck against the car, as a result of which, Dayal Chand Mehta received grievous injuries and died. With regard to the incident, FIR No. 293 dated 15.12.2014 Ex.PW3/A was registered against respondent No.2. 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 the offending bus by its driver i.e. respondent No.2. This finding was rightly given on the basis of deposition of Harish Kumar (PW-4) and Mahabir (PW-6).

The Tribunal has observed that only claimant No.2-Ms. Supriya Mehta was dependent upon the deceased and accordingly, she was found entitled to get the compensation on account of death of her father. Deceased-Dayal Chand Mehta was retired Govt. employee. As per income tax return Ex.PW1/C, he was getting pension to the tune of Rs.2,08,836/- per year i.e. Rs.17,403/- per month. Out of this, ½ amount was deducted towards his personal expenses, which came to Rs.8701/- per month i.e. Rs.1,04,412/- per annum. As per postmortem report, the deceased was 60 years of age at the time of death/accident. Accordingly, multiplier of 09 was applied. After applying the multiplier of 09, dependency of claimant-appellant No.2 came to Rs.9,39,708/- (1,04,412/- x 09). In addition to it, Rs.20,000/- were awarded on account of funeral expenses. Hence, claimant No.2-Supriya Mehta was found entitled to total compensation of Rs.9,59,708/- along with interest @ 9% 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. There is no dispute with regard to the finding returned by 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. 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.17,403/- per month
(ii)	15% of (i) above to be added as future prospects	17,403 + 2610 = Rs.20,013/-
(iii)	½ of (ii) above is deducted as personal expenses of the deceased	20,013 – 10006.5 = Rs.10006.5/-, rounded off Rs.10,007/-
(iv)	Compensation after multiplier of 09 is applied	Rs.10,007/- x 12 x 09 = Rs.10,80,756/-
(v)	Compensation under conventional heads	Rs.15,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.10,95,756/-
(vii)	Enhanced amount of compensation	Rs.10,95,756 – 9,59,708= Rs.1,36,048/-

The enhanced amount of compensation of **Rs.1,36,048/-** 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

21.02.2018

ajp

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