

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

F.A.O No. 3058 of 2017

Date of decision:- 07.03.2018

Harpal Kaur and Others

...Appellants

Versus

Balvir Singh and Others

...Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr.Kulwant Singh, Advocate,
for the appellants.

RITU BAHRI J. (Oral)

CM No.10126-CII of 2017

This is an application for condonation of delay of 313 days
in filling the present appeal.

Notice of motion in CM as well as in the main case.

Mr.Vinod Gupta, Advocate, has put in appearance and
accept notice on behalf of Insurance Company.

For the reasons mentioned in the application, same is
allowed and delay of 313 days in filling the present appeal is
condoned.

Accordingly, present application stands disposed of.

Main Case:

This appeal has been filed by the claimant-appellants
seeking enhancement of compensation awarded by Motor Accident
Claims Tribunal, Sangrur (hereinafter referred to as 'the Tribunal') vide
award dated 29.01.2016, on account of death of Balwinder Singh in a

motor vehicular accident which took place on 03.09.2014.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 03.09.2014, Bahadur Singh was driving the truck No.PB11(T) ZB 2264. When the truck crossed the Saffron resorts, Dhuri Road, Sangrur then truck turned turtle by chance and Balwinder Singh who was sitting in the truck died at the spot. He worked as cleaner in this truck and truck was going from Longowal to Ludhiana. DDR to this effect was also registered in Police Station Dhuri. Bahadur Singh being driver, Balvir Singh being owner and respondent NO. 3 being insurer are liable to pay the compensation. In this regard a DDR was registered as Ex. C2, copy of inquest report Ex. C3 and report of postmortem Ex. C4.

Consequently, claimants-appellants filed a claim petition under Section 163-A of Motor Vehicle Act 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 negligent driving of offending vehicle. Claimants deposed that at the time of accident/death, deceased was 38 years of age at and he was earning Rs.40,000/- per year as cleaner.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimants. Balwinder Singh (since deceased) has four dependents. As per the deposition of the claimant that he was cleaner of the truck and earning as Rs.40,000/- per year. But the owner and claimant own witness limits it to Rs.3,000/- per month. So Tribunal took income of the deceased as Rs.3,000/- per

month and as per second Schedule, the compensation admissible for person whose age was 38 is Rs.5,40,000/- per annum. Hence, Tribunal assessed the compensation as under:

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs. 3000/-
(ii)	1/3 rd deducting from (i) towards personal expenses	Rs.3000-1000=Rs.2000/-
(iii)	Multiplier applied	Rs.2000X12X15=3,60,000/-
(iv)	Compensation towards last rites and funeral expenses	Rs.2,000/-
(v)	Compensation towards loss of consortium	Rs.5,000/-
(vi)	Compensation towards loss of estate.	Rs.2,500/-
	Total Compensation	Rs. 3,69,500/-

Feeling dissatisfied with the impugned award, the claimant-appellants have preferred the present appeal.

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

REASSESSED COMPENSATION

Learned Counsel for the appellant stated that while assessing the compensation tribunal applied multiplier on lower side which should be 16 as per the Second Schedule under Section 163-A instead of 15.

The fact of accident is admitted and proved. In the peculiar facts and circumstances of the case, to meet the ends of justice and compensation awarded by the Tribunal requires to be reassessed keeping in view *the* Second Schedule of 163-A Motor Vehicle Act.

In the present case, the compensation is being reassessed as per the judgments mentioned above:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs. 3000/-
(ii)	1/3 rd deducting from (i) towards personal expenses	Rs.3000-1000=Rs.2000/-
(iii)	Multiplier applied	Rs.2000X12X16=3,84,000/-
(iv)	Compensation towards last rites and funeral expenses	Rs.2,000/-
(v)	Compensation towards loss of consortium	Rs.5,000/-
(vi)	Compensation towards loss of estate.	Rs.2,500/-
	Total Compensation	Rs. 3,93,500/-
	Enhanced amount of compensation	Rs.3,93,500-3,69,500=24,000/-

The enhanced amount of compensation of **Rs.24,000/-** shall be payable within a period of two months from the date of receipt of certified copy of this order. As per the judgment of Hon'ble Supreme Court in case **Shri Nagar Mal and Ors versus The Oriental Insurance Company Ltd. And Ors decided on 19.01.2018** the enhanced amount of compensation shall carry interest @ 7.5% per annum from the date of filing of the claim petition, till its realization. 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.

07.03.2018
Riya Grover

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>