

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

**FAO No.1361 of 2018 (O&M)
Date of decision: 30.05.2018**

Rajasthan State Road Transport Corporation, Jaipur Depot.
....Appellant

Versus

Sanjokta Rani and others
....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Anil Kumar Gahlawat, Advocate,
for the appellant.

RITU BAHRI J. (Oral)

Rajasthan State Road Transport Corporation-appellant (registered owner of offending bus) has come up in appeal against the awarded dated 28.11.2017 passed by the Motor Accident Claims Tribunal, Panipat (hereinafter referred to as 'the Tribunal'), whereby compensation of Rs.9,40,056/- has been awarded in favour of claimants-respondent Nos. 1 to 3 on account of death of Raja Ram in a motor vehicular accident which took place on 22.09.2016. Respondent No. 1 is widow, respondent No.2 is son and respondent No.3 is mother of deceased Raja Ram.

Brief facts of the case are that on 22.09.2016 Raja Ram (since deceased), who was working as driver of vehicle bearing registration No. PB-10-FF-4037 along with Naresh Kumar (conductor), after loading plastic *dana* from Refinery, Panipat, started towards Ahmadabad. At about 9.30 P.M., when they reached near flyover Samalkha, a bus bearing registration No.RJ-14-PC-0220 had been parked in 'no parking' area and passengers

were alighting from the said bus. The bus was being driven by Manohar Lal Verma-respondent No.4 (respondent No.1 in claim petition). Thereafter, without giving any indicator, the driver took the bus between G.T. Road, due to which, the vehicle which was being driven by Raja Ram (deceased) struck with the bus from behind. As a result of this, their vehicle after passing the divider turned turtle on Delhi-Chandigarh Road. Driver Raja Ram sustained injuries on his head. He was taken to Civil Hospital, Samalkha. Thereafter, he was taken to PGI, Rohtak, where he succumbed to the injuries. With regard to the accident, FIR No.585 dated 23.09.2016, under Sections 283/304-A/337 IPC was registered against respondent No.4 at Police Station, Samalkha, District Panipat, on the statement of complainant Naresh Kumar. Consequently, the claimants (respondent Nos. 1 to 3 herein) filed a claim petition before the Tribunal.

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident in question had taken place due to rash and negligent driving of offending bus bearing registration No. RJ-14-PC-0220 by Manohar Lal Verma-respondent No.1 (respondent No.4 herein) and thus, returned the finding on issue no.1 in favour of the claimants-respondent Nos. 1 to 3. This finding is rightly given on the basis of deposition of Naresh Kumar (PW-2), who was an eye witness of the accident and on whose statement, FIR Ex.P2 was recorded. Further, the claimants have proved on record copy of report under Section 173 Cr.P.C. Ex.P4 and charge sheet as Ex.P5.

In the absence of any documentary proof, income of the deceased was assessed as Rs.6290/- per month as that of a skilled labourer, out of which, 1/3rd amount was deducted towards his personal expenses,

which came to be Rs.4193/- per month i.e. Rs.50,316/- per annum. The deceased was 35 years of age at the time of death/accident. Accordingly, multiplier of 16 was applied. After applying the multiplier of 16, dependency of claimants came to Rs.8,05,056/- (50,316/- x 16). In addition to it, Rs.50,000/- were awarded towards loss of consortium, Rs.25,000/- as funeral expenses, Rs.10,000/- as transportation and Rs.50,000/- on account of love and affection. Hence, the claimants were found entitled to total compensation of Rs.9,40,056/- along with interest @ 9% per annum from the date of filing of the petition till realization. Respondents (in claim petition) were held liable jointly and severally to pay the compensation.

Learned counsel for the appellant argued that respondent No.4 (driver of offending bus) was not negligent in driving the bus and appellant has been wrongly held liable to pay the compensation. Learned counsel has further argued that while assessing compensation, the Tribunal has taken income of the deceased as Rs.6290/- per month, which is on the higher side.

I have heard learned counsel for the appellant 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 been rightly given by the Tribunal and it does not require any modification on that account. Reference, at this stage, can be made to a judgment passed by Hon'ble the Supreme Court in **Jakir Hussein vs. Sabir and others**, 2015 ACJ 721, wherein it has been held that wage rate as per the minimum wage notification is only a yardstick and not an absolute factor to be taken to determine the compensation under the future loss of income. Minimum wage may, at times, fail to meet the requirements that are

needed to maintain the basic quality of life since, it is not inclusive of factors of cost of living index.

In view of the above judgment, arguments raised by learned counsel for the appellant are rejected. Rather, a perusal of the impugned award shows that the income of deceased as assessed by the Tribunal is on the lower side and it requires to be reassessed. Further, the Tribunal has not awarded anything under the head 'future prospects'.

Therefore, this Court **suo** moto taking cognizance, while exercising powers under Article 226 of the Constitution of India, proceeds to reassess the compensation 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.9000/- per month
(ii)	40% of (i) above to be added as future prospects	9000 + 3600 = Rs.12,600/-
(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	12,600 – 4200 = Rs.8400/-
(iv)	Compensation after multiplier of 16 is applied	Rs.8400/- x 12 x 16 = Rs.16,12,800/-
(v)	Compensation under conventional heads	Rs.70,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.16,82,800/-
(vii)	Enhanced amount of compensation	Rs.16,82,800 – 9,40,056= Rs.7,42,744/-

The enhanced amount of compensation of **Rs.7,42,744/-** 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 (decided on 19.01.2018).” Remaining conditions of disbursal of amount shall remain unaltered. The amount of compensation shall be paid to the claimants within 08 (eight weeks) from the date of receipt of certified copy of this judgment under intimation to this Court.

Accordingly, the appeal filed by the appellant is dismissed and the impugned award stands modified to the above extent.

(RITU BAHRI)
JUDGE

30.05.2018
ajp

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