

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-5273-2017 (O&M)

Date of decision: 23.05.2018

Kamla Rathi and another

...Appellants

V/s.

Rajender Mukhiya and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Vikas Lochab, Advocate for the appellant.

Mr. Vinod Gupta, Advocate for insurance co.

RITU BAHRI, J. (Oral).

The claimants have come up in appeal against the award dated 29.08.2016 passed by Motor Accident Claims Tribunal, Sonipat (for short 'the Tribunal') whereby they have been awarded a compensation of Rs.10,75,600/- on account of death of their son Bhupender Rathi who died in a road accident that took place on 13.08.2013.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 13.08.2013, Bhupender Rathi, Vikas Dahiya and Parveen son of Jasbir were travelling in car bearing No. DL-4CAB-1807 from Delhi to Sonapat. When they reached after crossing bridge near Piau Maniyari, their car struck behind a trolly bearing No. HR-47A/6654 which was standing on the road without any indicator and light. After the accident, car got ablazed and Bhupender Rathi and Vikas Dahiya died on the spot due to burn injuries. The claimants are the parents of the deceased Bhupender Rathi.

With regard to accident, an FIR No. 232 dated 13.03.2013 under Sections 283/337/304A IPC was registered in Police Station Kundli against the driver/respondent No. 1 of trolla.

Consequently, the claimant-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

The parties are not in dispute with regard to finding on issue No. 1 that the accident took place on account of rash and negligent driving by respondent No. 1. This finding has been rightly given keeping in view that the FIR No. 232 dated 13.03.2013 under Sections 283/337/304A IPC was registered in Police Station Kundli against respondent No. 1. The claimants have also placed on record post mortem report (Ex.P1), copy of FIR (Ex.P2), copy of site plan (Ex.P13) and other relevant documents.

The deceased was unmarried and was 24 years of age as per postmortem report (Ex.P1). He was doing L.L.B. from Delhi University. The Tribunal has taken his income as skilled labour and assessed the compensation as under:-

HEADS	CALCULATIONS
Income	6,300
Annual income	6300 X 12=75,600
50% future prospects	75600 +37800=1,13,400
½ deduction for personal expenses	113400-56700=56,700
Compensation after multiplier of 18 applied	56700 X 18=10,20,600
Love and affection	50,000/-
Funeral expenses	5,000/-
TOTAL COMPENSATION AWARDED	Rs. 10,75,600/-

Hence, the claimants were found entitled to total compensation of Rs.10,75,600/- 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

The fact of accident is admitted and proved. 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, *National Insurance Company Limited Vs. Pranay Sethi and others*, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017) and the minimum wages prevalent in the State of Haryana in the year 2013 as under:-

HEADS	CALCULATIONS
Income	7500
50% future prospects	7500+3750=11,250
½ deduction for personal expenses	11250-5625=5,625
Compensation after multiplier of 18 applied	5625 X 12 X 18=12,15,000
Conventional head	30,000
TOTAL COMPENSATION AWARDED	Rs. 12,45,000/-
ENHANCED AMOUNT OF COMPENSATION	Rs.12,45,000- 10,75,600=1,69,400/-

The enhanced amount of compensation of **Rs.1,69,400/-** 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 23, 2018
Divyanshi

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