

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

**FAO No.5876 of 2017
Date of decision: 02.05.2018**

Charanjit Kaur and another

....Appellants

Versus

Sachin Kumar and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ashish Pannu, Advocate,
for the appellants.

Mr. Vishwajit Bedi, 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, Patiala (hereinafter referred to as 'the Tribunal') vide award dated 28.02.2017 on account of death of Major Singh in a motor vehicular accident which took place on 23.07.2015. Appellant No.1 is widow and appellant No.2 is son of deceased Major Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 23.07.2015, Major Singh (since deceased) was going from his house towards bus-stand of village Kaidupur on his motorcycle bearing registration No. PB-11-BG-7587. Parminder Singh, claimant No.2, was coming back from the bus-stand along with Ex-Sarpanch of the village. When they reached near village New

respondent No.1-Sachin Kumar in a rash and negligent manner, came from the side of village Kaidupur and struck against the motorcycle of Major Singh, as a result of which, he received injuries. He was taken to Civil Hospital, Nabha, from where he was referred to Rajindera Hospital, Patiala, but was got admitted in Columbia Asia Hospital, Patiala. However, due to critical condition, Major Singh was referred to PGI, Chandigarh, where he remained admitted from 28.07.2015 to 03.08.2015. Unfortunately, he succumbed to the injuries on 03.08.2015. With regard to the incident, FIR No.68 dated 24.07.2015, under Sections 279/337/338/304-A/427 IPC was registered against respondent No.1. 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 vehicle by its driver i.e. respondent No.1-Sachin Kumar. This finding was rightly given on the basis of deposition of Parminder Singh (PW-1), who was eye witnesses of the accident. Claimants have also proved on record copy of FIR Ex.P2, report under Section 173 Cr.P.C. Ex.P1 and other documents as Ex.P3 to Ex.P34.

In the absence of any documentary proof, income of the deceased was taken by the Tribunal as Rs.12,000/- per month, out of which, 1/3rd amount was deducted towards his personal expenses. By doing so, remaining amount came to be Rs.8,000/- per month. The Tribunal has further observed that claimant No.2-Parminder Singh, who is son of deceased-Major Singh, was 30 years of age. Therefore, he was not held to be dependent upon the deceased. Only claimant No.1-Charanjit Kaur

(widow) was held to be dependent upon deceased-Major Singh. The deceased was 50 years of age at the time of death/accident. Accordingly, multiplier of 13 was applied. After applying the multiplier of 13, dependency of claimant No.1 came to Rs.12,48,000/- (8000 x 12 x 13). In addition to it, Rs.25,000/- were awarded on account of funeral expenses and Rs.1,00,000/- to claimant No.1 on account of loss of consortium. Hence, the claimant No.1 (widow) was found entitled to total compensation of Rs.13,73,000/- 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. Parties are not in dispute with regard to the findings given by Tribunal on issue No.1 that the accident had taken place due to rash and negligent driving of 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.12,000/- per month

(ii)	10% of (i) above to be added as future prospects	12,000 + 1200 = Rs.13,200/-
(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	13,200 – 4400 = Rs.8800/-
(iv)	Compensation after multiplier of 13 is applied	Rs.8800/- x 12 x 13 = Rs.13,72,800/-
(v)	Compensation under the conventional heads	Rs.70,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.14,42,800/-
(vii)	Enhanced amount of compensation	Rs.14,42,800 – 13,73,000 = Rs.69,800/-

The enhanced amount of compensation of **Rs.69,800/-** 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 partly allowed.

(RITU BAHRI)
JUDGE

02.05.2018
ajp

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