

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

**FAO No.6337 of 2017
Date of decision: 14.05.2018**

Rajwant Kaur and others

....Appellants

Versus

Jaspal Singh alias Laddi and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Lakhwinder Singh Sidhu, Advocate,
for the appellants.

None for respondents.

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 03.04.2017 on account of death of Kashmir Singh in a motor vehicular accident which took place on 23.04.2012. Appellant No.1 is widow and appellant Nos.2 to 6 are children of deceased Kashmir Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 23.04.2012, Kashmir Singh (since deceased) along with Surjit Singh son of Darshan Singh was going towards his house for taking dinner. When they reached on the road behind Gurudwara Naam Jap Sahib, a motorcycle bearing registration No.PB-11-T-0595 being driven by Jaspal Singh-respondent No.1 in a rash and negligent

manner, came from the opposite side and struck against Kashmir Singh, as a

result of which, Kashmir Singh suffered injuries. He was taken to Sudarshana Devi Hospital, Patra, from where, he was referred to PGI, Chandigarh. However, he succumbed to the injuries on the way. With regard to the incident, FIR Ex.C2 was registered against respondent No.1 on the statement of Surjit Singh. 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 and thus, returned finding on issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of Surjit Singh (CW-2), who was an eye witness of the accident and on whose statement, FIR Ex.C2 was registered. Claimants have also proved on record copy postmortem report of deceased as Ex.C3.

The deceased was working as a truck driver. The Tribunal has taken the income of deceased as Rs.6000/- per month, out of which, 50% amount was deducted towards his personal expenses. By doing so, remaining amount came to be Rs.3000/- per month. The deceased was 51 years of age at the time of death/accident. Accordingly, multiplier of 11 was applied. The Tribunal has observed that claimant Nos.2 to 6 were major at the time of death of Kashmir Singh and were self dependent. Therefore, they were not held entitled to receive any compensation on account of death of Kashmir Singh. However, claimant No.1 being widow, was held entitled to receive the compensation. After applying the multiplier of 11, dependency of claimant No.1 came to Rs.3,96,000/- (3000/- x 11 x 12). In

addition to it, Rs.25,000/- were awarded on account of funeral expenses and Rs.1,00,000/- were awarded to claimant No.1 (widow) as loss of consortium. Hence, the claimant No.1 was found entitled to total compensation of Rs.5,21,000/- along with interest at the rate of 9% per annum from the date of filing of 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.6000/- per month
(ii)	10% of (i) above to be added as future prospects	6000 + 600 = Rs.6600/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	6600 – 1650 = Rs.4950/-

(iv)	Compensation after multiplier of 11 is applied	Rs.4950/- x 11 x 12 = Rs.6,53,400/-
(v)	Compensation under the conventional heads	Rs.70,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.7,23,400/-
(vii)	Enhanced amount of compensation	Rs.7,23,400 – 5,21,000 = Rs.2,02,400/-

The enhanced amount of compensation of **Rs.2,02,400/-** 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 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

14.05.2018

ajp

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