

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

**FAO No.7383 of 2017 (O&M)
Date of decision: 07.05.2018**

Kamlesh and others

....Appellants

Versus

Mohan Lal and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Pawan Attri, Advocate,
for the appellants.

Mr. Rajbir Singh, 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, Jind (hereinafter referred to as 'the Tribunal') vide award dated 31.01.2017, on account of death of Karambir in a motor vehicular accident which took place on 01.08.2015. Appellant No.1 is widow, appellant Nos. 2 and 3 are daughters and appellant No.4 is mother of deceased Karambir.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 01.08.2015, after selling vegetables, Karambir (since deceased) along with his brother Sushil was returning from village Lochab to Jind in a three wheeler. Three wheeler was being driven by Karambir, whereas Sushil was sitting in the backside of the vehicle. At about 2.45 P.M., when they reached in the area of village

Manoharpur, an Indigo car bearing registration No. HR-55-KT-4509 being driven by respondent No.1-Mohan Lal in a rash and negligent manner, came from behind and struck against the three wheeler, as a result of which, three wheeler turned turtle and fell in the roadside ditches. Both the occupants of the three wheeler received multiple, serious and grievous injuries. They were taken to Government Hospital, Jind, where Karambir succumbed to the injuries. With regard to the accident, FIR No.279 dated 01.08.2015, under Sections 279/304-A IPC was registered against respondent No.1 at Police Station, Sadar, Jind, on the statement of Sushil. 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 offending vehicle by respondent No.1, as a result of which Karambir has died and thus, returned the finding on issue no.1 in favour of the claimants. This finding was rightly given on the basis of the deposition of Sushil (PW-2), who was an eye witness of the accident and on whose statement, the FIR Ex.P1 was registered. The claimants have also proved on record copy of report under Section 173 CPC Ex.P2, charge sheet Ex.P3 and copy of postmortem report Ex.P7.

In the absence of any documentary proof, income of the deceased was assessed as Rs.8000/- per month i.e. Rs.96,000/- per annum, as that of a casual labourer. Out of this, 1/4th amount was deducted towards personal expenses of the deceased, which came to Rs.72,000/- per annum (96,000 – 24,000). The deceased was 42 years of age at the time of accident/death. Therefore, multiplier of 15 was applied. After applying the

multiplier of 15, dependency of claimants (appellants) came to Rs.10,80,000/- (72,000 x 15). In addition to it, Rs.25,000/- were awarded on account of funeral expenses, Rs.11,000/- as loss of estate and Rs.1,00,000/- to claimant No.1 as loss of consortium. Hence, appellant-claimants were found entitled to total compensation of Rs.12,16,000/- along with interest @ 9% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-appellant has 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 respect to the findings given by the Tribunal on issue No.1 that the accident had taken place on account of rash and negligent driving of the 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.8000/- per month
(ii)	25% of (i) above to be added as future prospects	8000 + 2000 = Rs.10,000/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	10,000 – 2500 = Rs.7500/-

(iv)	Compensation after multiplier of 14 is applied	Rs.7500/- x 12 x 14 = Rs.12,60,000/-
(v)	Compensation under the conventional heads	Rs.70,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.13,30,000/-
(vii)	Enhanced amount of compensation	Rs.13,30,000 – 12,16,000 = Rs.1,14,000/-

The enhanced amount of compensation of **Rs.1,14,000/-** 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.

Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

(RITU BAHRI)
JUDGE

07.05.2018
ajp

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