

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

**FAO No.7701 of 2017
Date of decision: 15.05.2018**

Kamaljit Kaur and others

....Appellants

Versus

Bhupinder Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Vivek Suri, Advocate,
for the appellants.

Mr. M.B. Jain, 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, Fatehgarh Sahib (hereinafter referred to as 'the Tribunal') vide award dated 28.07.2017 on account of death of Paramjit Singh in a motor vehicular accident which took place on 27.11.2015. Appellant No.1 is widow, appellant Nos.2 & 3 are children and appellant Nos.4 & 5 are parents deceased Paramjit Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 27.11.2015, Paramjit Singh (since deceased) and Gurpreet Singh were going on foot from Bus Stand, Jakhwali towards Sirhind. At about 11.00/12.00 P.M., when they reached near the wine shop of village Jakhwali, a Tata Sumo bearing registration

No. HR-37-B-9607 being driven by respondent No.1-Bhupinder Singh in a rash and negligent manner, came and struck against Paramjit Singh, as a result of which, he fell down and received multiple grievous injuries. He was taken to Civil Hospital, Fatehgarh Sahib, from where he was referred to PGI, Chandigarh. Ultimately, Paramjit Singh succumbed to the injuries on 29.11.2015. With regard to the incident, FIR No.71 dated 01.12.2015, under Sections 279/304-A IPC was registered at Police Station, Mulepur on the statement of Gurpreet 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-Bhupinder Singh. This finding was rightly given on the basis of deposition of Gurpreet 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 of postmortem report of deceased as Ex.C1.

In the absence of any documentary proof, income of the deceased was taken by the Tribunal as Rs.7500/- per month, out of which, 1/3rd amount was deducted towards his personal expenses. By doing so, remaining amount came to be Rs.5000/- per month. 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.9,60,000/- (5000/- x 12 x 16). In addition to it, Rs.25,000/- were awarded on account of funeral expenses and Rs.1,00,000/- are awarded to claimant No.1 (widow) as loss of consortium. Hence, the claimants were

found entitled to total compensation of Rs.10,85,000/- along with interest at the rate of 7% 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.7500/- per month
(ii)	40% of (i) above to be added as future prospects	7500 + 3000 = Rs.10,500/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	10,500 – 2625 = Rs.7875/-
(iv)	Compensation after multiplier of 16 is applied	Rs.7875/- x 12 x 16 = Rs.15,12,000/-
(v)	Compensation under the conventional heads	Rs.70,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.15,82,000/-

(vii)	Enhanced amount of compensation	Rs.15,82,000 – 10,85,000 = Rs.4,97,000/-
-------	---------------------------------	---

The enhanced amount of compensation of **Rs.4,97,000/-** 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 (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

15.05.2018
ajp

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