

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

FAO No.119 of 2016 (O&M)

Date of decision: 26.08.2019

Mann Singh and another

....Appellants

Versus

Rohtash and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Dheeraj Narula, Advocate,
for the appellants.

Mr. Sudarshan, Advocate,
for respondent No.2-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, Sirsa (hereinafter referred to as 'the Tribunal') vide award dated 23.09.2015, on account of death of Kalawati in a motor vehicular accident which took place on 09.08.2014. Appellant No.1 is husband and appellant No.2 is son of deceased Kalawati.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 09.08.2014, at about 12.00 P.M., Kalawati (since deceased) was going towards bus-stand, Mallekan on a motorcycle bearing registration No. RJ-51-J-3177, which was being driven by Krishan Kumar. When they reached near T point of Malwani Road, in the meantime, a car bearing registration No. HR-44-F-2555 being driven by Rohtash-respondent No.1 in a rash and negligent manner, came

of motorcycle fell down and received injuries. They were taken to PHC, Mallekan, from where they were shifted to General Hospital, Sirsa, but due to serious head injury, Kalawati was referred to higher institution. Unfortunately, she succumbed to the injuries in the way of Bombay Neuro Care Hospital, Sirsa. With regard to the accident, FIR No.297 dated 09.08.2014, under Sections 279/337/304-A/427 IPC was registered against respondent No.1 at Police Station, Sadar Sirsa on the statement of Krishan Kumar. 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 Kalawati has died and thus, returned finding on issue no.1 in favour of the claimants. This finding was rightly given on the basis of the deposition of Krishan Kumar (PW-2), who was eye witness of the accident and on whose statement, FIR Ex.P6 was registered. Further, the claimants have proved on record copy of challan Ex.P1 and postmortem report as Ex.P7.

Deceased-Kalawati was a household lady. The Tribunal had assessed her income as Rs.3000/- per month i.e. Rs.36,000/- per annum. As per postmortem report Ex.P7, deceased was 50 years of age at the time of accident/death. Multiplier of 13 was applied by the Tribunal. After applying the multiplier of 13, dependency of claimants came to Rs.4,68,000/- (36,000 x 13). In addition to it, Rs.1,00,000/- were awarded to claimant No.1-husband as loss of consortium, Rs.50,000/- as love and affection and

Rs.25,000/- as funeral expenses. Hence, appellant-claimants were found entitled to total compensation of Rs.6,43,000/- along with interest @ 8% 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 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.

At this stage, reference can be made to a judgment passed in **United India Insurance Company Limited vs. Sube Singh and others**, FAO-218-2014 (decided on 15.01.2014), wherein deceased was 40 years old lady and the Co-ordinate Bench of this Court has observed that to tag a housewife as a 'skilled' worker alone does not do complete justice to her multifarious role as a home manager. It has further been observed that a housewife is something more than a mere skilled worker and it would not be unreasonable to estimate the contribution of the deceased at a higher figure. Being a housewife, her income had been assessed at Rs.9000/- per month and no deduction was made in the income, so assessed.

In the facts of the present case, deceased-Kalawati was a housewife. Therefore, following the ratio of judgment passed in **Sube Singh's** case (supra), income of deceased is being assessed as Rs.9000/- per

month. Hence, in the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed in view of the law laid down 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), Magma General Insurance Co. Ltd. vs. Nanu Ram alias Chuhru Ram & Ors., 2018 (4) RCR (Civil) 333 and Sube Singh's case (supra), as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.9000/- per month
(ii)	Compensation after multiplier of 13 is applied	9000 x 12 x 13 = Rs.14,04,000/-
(iii)	Loss of consortium to the husband-claimant No.1	Rs.40,000/-
(iv)	Loss of filial consortium to the son-claimant No.2	Rs.40,000/-
(v)	Compensation on account of loss of estate	Rs.15,000/-
(vi)	Funeral expenses	Rs.15,000/-
(vii)	TOTAL COMPENSATION AWARDED	Rs.15,14,000/-
(viii)	Enhanced amount of compensation	Rs.15,14,000 – 6,43,000 = Rs.8,71,000/-

The enhanced amount of compensation of Rs.8,71,000/- 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 @ 9 per annum from the date of filing of the claim petition, till its realization keeping in view the judgment passed by Hon'ble the Supreme Court in Dara Singh @ Dhara Banjara vs. Shyam Singh Verma & others, Civil Appeal No.4528 of 2019 (arising out of SLP (C) No.5720 of 2019), decided on 01.05.2019. 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

26.08.2019
ajp

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