

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

**FAO No.8007 of 2015 (O&M)
Date of decision: 03.12.2019**

Bhura Singh and others

....Appellants

Versus

Mahender Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Gourav Jain, Advocate,
for the appellants.

Mr. Rahul Vats, Advocate,
for respondent No.1.

Mr. P.S. Saini, 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, Fatehabad (hereinafter referred to as 'the Tribunal') vide award dated 10.08.2015 on account of death of Jaswant Kaur in a motor vehicular accident which took place on 04.07.2013. Appellants No.1 is husband and appellant Nos. 2 & 3 are sons of deceased Jaswant Kaur.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 04.07.2013, Jaswant Kaur (since deceased) along with Lakhwinder Singh @ Billa was coming from the side of village Kullan on a motorcycle bearing registration No.HR-23-

D-2077. The said motorcycle was being driven by Lakhwinder Singh @ Billa. At about 11.30 A.M., when they reached near bus stop of village Dharsul, in the meantime, a Toyota Innova bearing No.CH-04-J-3666 being driven by Mahender Singh-respondent No.1 in a rash and negligent manner, came from the opposite side and struck against motorcycle, as a result of which, both the occupants of motorcycle i.e. Jaswant Kaur and Lakhwinder Singh @ Billa fell down and received multiple grievous and serious injuries. Unfortunately, Jaswant Kaur succumbed to the injuries. Lakhwinder Singh @ Billa was taken to the hospital. With regard to the incident, FIR No. 151 dated 04.07.2013, under Sections 279/337/304-A 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, which resulted into the death of Jaswant Kaur. This finding was rightly given on the basis of deposition of Bhura Singh (PW-1) and Lakhwinder Singh @ Billa (PW-2), who were eye witnesses of the accident. Apart from this, claimants have also proved on record copy of FIR Ex.P367, report under Section 173 Cr.P.C. Ex.P368, charge sheet Ex.P369 and postmortem report Ex.P372.

The deceased was a housewife and used to render her services to the family. On the basis of evidence adduced by the claimants, income of the deceased was assessed as Rs.36,000/- per annum. As per postmortem report Ex.P372, 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 claimants came to Rs.4,68,000/- (36,000/- x 13). In addition to it, Rs.50,000/- were awarded to claimant No.1-husband as loss of love and affection/consortium and Rs.10,000/- as funeral expenses. Hence, the claimants were found entitled to total compensation of Rs.5,28,000/- along with interest @ 7.5% 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 as 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-Jaswant Kaur was a

housewife. Deceased was 50 years of age at the time of death/accident. 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	Rs.9000/- x 12 x 13 = Rs.14,04,000/-
(iii)	Loss of estate	Rs.15,000/-
(iv)	Funeral expenses	Rs.15,000/-
(v)	Loss of consortium to the husband i.e. claimant-appellant No.1).	Rs.40,000/-
(vi)	Loss of filial consortium to the sons i.e. claimant-appellant Nos.2 and 3	Rs.80,000/- (Rs.40,000/- each)
(vii)	TOTAL COMPENSATION AWARDED	Rs.15,54,000/-
(viii)	Enhanced amount of compensation	Rs.15,54,000 – 5,28,000 = Rs.10,26,000/-

The enhanced amount of compensation of **Rs.10,26,000/-** 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, in view of the judgment of Hon'ble the Supreme Court in

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

03.12.2019
ajp

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