

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

**FAO No.4217 of 2002 (O&M)
Date of decision: 29.10.2015**

Manjit Kaur

....Appellant

Versus

Nirvail Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. H.S. Dhindsa, Advocate,
for the appellant.

Mr. Ravinder Arora, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Ludhiana (hereinafter referred to as 'the Tribunal') vide award dated 04.04.2002, on account of death of Amar Singh in a motor vehicular accident which took place on 06.08.1997. Appellant is widow of deceased Amar Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 06.08.1997, at about 7.30 p.m., deceased-Amar Singh and Baldev Singh were going on their respective bicycles. When they reached in front of shop of Maya Soap, a truck bearing registration No. PB-12-B-8218, being driven by Nirvail Singh-respondent No.1 in a rash and negligent manner, came at a high speed and struck against the cycle of Amar Singh, as a result of which he received

multiple and serious injuries. His bicycle got damaged being run over by the truck. Respondent No.1 stopped his truck a little ahead of the site of accident and after disclosing his name and address, he fled away from the spot. The accident was also witnessed Jasbir Singh. Amar Singh was shifted to Dayanand Medical College and Hospital, Ludhiana, where he succumbed to his injuries on 06.08.1997. With regard to the accident, FIR No.177 dated 06.08.1997 was recorded at Police Station, Division No.6, Ludhiana, on the statement of Baldev Singh. Consequently, the claimant-appellant and her father-in-law Mohinder Singh (since deceased) 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 been caused on account of rash and negligent driving of offending truck by respondent No.1 and thus, returned the finding on Issue No.1 in favour of the claimant(s). This finding was rightly given on the basis of deposition of Baldev Singh (AW-2), who was an eye witness of the accident. Ultimately, the claim petition was accepted by the Tribunal and a sum of Rs.3,52,000/- was awarded as compensation on account of death of Amar Singh. The income of the deceased was taken as Rs.2400/- per month, out of which, about 1/3rd amount was deducted towards his personal expenses. The dependency of claimants, thus, came to Rs.1800/- per month. Deceased was 28 years of age at the time of accident/death and the multiplier of 16 was applied. Thus, the claimants were found entitled to compensation of Rs.3,45,600/- (1800 x 12 x 16). In addition to it, Rs.2000/- were awarded as funeral charges and Rs.5000/- towards loss of consortium. Hence, the claimant was found entitled to total

compensation of Rs.3,52,000/- 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. 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 of Asha Verman and others vs. Maharaj Singh and others, 2015(2) RCR (Civil) 520, New India Assurance Company Limited vs Gopali and others, 2012 (12) SCC 198, Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77, Rajesh and others vs. Rajbir Singh and others, 2013 (9) SCC 54 and Munna Lal Jain and another vs. Vipin Kumar Sharma and others, 2015(3) Recent Apex Judgments 459, as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.2400/- per month
(ii)	50% of (i) above to be added as future prospects	2400 + 1200 = Rs.3600/-
(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	3600 – 1200 = Rs.2400/-
(iv)	Compensation after multiplier of 17 is applied (Age 28 years)	Rs.2400/- x 12 x 17 = Rs.4,89,600/-
(v)	Loss of consortium for the widow	Rs.1,00,000/-
(vi)	Loss of estate	Rs.1,00,000/-
(vii)	Funeral expenses	Rs.25,000/-
(viii)	TOTAL COMPENSATION AWARDED	Rs.7,14,600/-

(ix)	Enhanced amount of compensation	Rs.7,14,600 – 3,52,000 = Rs.3,62,600/-
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The enhanced amount of compensation of **Rs.3,62,600/-** 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 the case of “*Kumari Kiran through her father Harinarayan vs. Sajjan Singh and others*”, 2015(1) SCC 539. 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

29.10.2015
ajp