

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

FAO No.977 of 2002

Date of decision: 12.10.2015

Smt. Shail Singal and others

....Appellants

Versus

Shri Sanjeev Yadav and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Mohan Singh Rana, Advocate
for Mr.Pravinder Singh Chauhan, Advocate
for the appellants.

Mr. Vinod Chaudhri, Advocate
for respondent No.3.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal') vide award dated 16.08.2001, on account of death of Bhushan Parkash Singal in a motor vehicular accident which took place on 24.05.1999.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 24.05.1999, Bhushan Parkash Singal was driving a car bearing registration No.HR-05-E-9933 from Kishangarh to Karnal. Mr. K.K. Arora, his son Mani Arora and one Peon Mohd. Samiri, were the other occupants of the

said car. They had gone collectively to Kishangarh Ajmer for purchasing the marble stone. While returning in the case, when they were at a distance of 1 k.m. away from Kot Putli at about 02:00 a.m., a truck bearing registration No.HR-37-5026 came from the opposite side in a rash and negligent manner. The driver of the vehicle was driving the truck in a very high speed and it hit into the car on the wrong side and without observing the traffic rules. The driver of the truck fled away from the site after leaving the vehicle on the road. As a result of this impact, Bhushan Parkash Singal received multiple injuries and he succumbed to the injuries at the site.

In this regard, FIR No.364 dated 24.05.1999, under Sections 279, 337, 304-A IPC, in respect of the accident in question, was got registered at Police Station Kotputli.

Consequently, the claimants-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 was caused on account of rash and negligent driving by Balwinder Singh-respondent No.2. The claim petition was accepted by the Tribunal and a sum of Rs.2,95,000/- was awarded as compensation on account of death of Bhushan Parkash Singal.

As per Salary Certificate Ex.PB, the deceased was

drawing gross income of Rs.13,880/- and apart from it he was drawing an amount of Rs.1,408/- as Employees Provident Fund. The total, thus, comes out to Rs.15,288/-. Out of this total joint salary, Rs.800/- was deducted in respect of income-tax and the balance amount comes to Rs.14,480/-. Out of this, 1/3rd amount was deducted towards personal expenses. The monthly dependency of claimants, thus, came to Rs.9,655/- per month and the annual dependency comes to Rs.1,15,860/- (Rs.9,655 x 12). Bhushan Parkash Singal (deceased) was 55 years of age at the time of the accident/death and the multiplier of 5 was applied. Thus, the claimants were found entitled to compensation of Rs.5,79,300/-. In addition to it, further compensation of Rs.10,000/- was awarded on account of loss of solatium and funeral expenses. Hence, the claimants were found entitled to total compensation of Rs.5,89,300/-. The amount of compensation has been proportionately divided as it is a case of composite negligence on behalf of the deceased and the vehicle owned by respondent No.1. So, the respondents were held liable to pay 50% of the amount of compensation, which comes to Rs.2,91,650/-.

Feeling dissatisfied with the impugned award, the claimants-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.

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, *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. Accordingly, a sum of Rs.1,25,000/- more is granted to the claimants-appellants in addition to the amount already awarded by the Tribunal on account of loss of love and affection and funeral expenses by keeping in view the fact that the accident took place in the year 1999.

The enhanced amount of compensation of **Rs.1,25,000/-** 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 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

12.10.2015
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