

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.463 of 2003

Date of Decision: 17.09.2015

Smt.Harbans Kaur and Anr.

.....appellants

Vs.

Constable Rajinder Singh and Others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Ms.Sagina, Advocate for
Mr.Sandeep Khunger, Advocate for the appellants.

Ms.Gehna Vaishnavi, Advocate for
Mr.Vivek Singla, Advocate for respondents No.1 to 3.

RITU BAHRI, J. (ORAL)

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Ferozepur (hereinafter referred to as 'the Tribunal') vide award dated 26.10.2002 on account of death of Kashmir Singh in a vehicular accident, husband and father of the claimants.

FACTS NOT IN DISPUTE

The Brief facts of the case are that on 04.05.1999, Kashmir Singh, husband and father of the claimants respectively (as mentioned in the memo of parties) left village Malwal Qadim for Ferozepur while riding on a scooter bearing registration No.PB-05B-9946. Joginder Singh brother of Kashmir Singh was sitting on the pillion. When the said scooter reached in front of the shop of Mohan Singh son of Beghel Singh of Village Malwal Qadim, one military truck bearing registration No.96-E-11752 came from behind. It was being driven by respondent

No.1 in a rash and negligent manner. When the said truck was in the process of overtaking the scooter, it rammed into the scooter, as a result whereof, Joginder Singh fell on the left side on the kacha path, whereas Kashmir Singh fell on the right side on the main road. The head of Kashmir Singh was crushed under the rear tyre of the truck. He died then and there. The post-mortem of the dead body of Kashmir Singh was conducted at Civil Hospital, Ferozepur on 04.05.1999. After causing the accident, the driver of the truck sped away from the scene of accident. A chase was given to the truck in a car. The driver of the truck left the truck near village Allewala and himself fled away. The truck was taken into custody by the police of Police Station Saddar Ferozepur.

COMPENSATION ASSESSED BY THE MACT

The Tribunal by its judgment and award dated 26.10.2002 allowed the claim in part. The Tribunal calculated the compensation by taking the monthly income of the deceased as Rs.3000/- being daily wager. It deducted one-third towards the personal and living expenses of the deceased. Thus, income of the deceased was assessed at Rs.2000/- per month. Since the age of the deceased was found 60 years at the time of accident as per post mortem report, multiplier of 5 was applied. Thus total compensation was assessed at Rs.1,20,000/- with interest of 9% per annum from the date of filing of the petition till the said payment was made.

REASSESSED COMPENSATION

I have heard learned counsel for the parties and perused the case file.

The fact of the accident is admitted and proved. The deceased 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*

Verma 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 and New India Assurance Company Ltd. Vs. Gopali and Others 2012 (12) SCC 198. Accordingly, the compensation is re-assessed as under:-

<i>Sr. No.</i>	<i>HEADS</i>	<i>CALCULATION</i>
1.	Income	Rs.3,000/-
2.	15% of (i) above to be added as future prospects (60 years)	[Rs.3,000/- + Rs.450/-] =Rs.3450/-
3.	1/10 th deduction	[(Rs.3450/-)-(Rs.345/-)] =Rs.3105/-
4.	Multiplier (as per age 60)	[Rs.3105/- X 12 X 9]=Rs.3,35,340/-
5.	Loss of consortium	Rs.1,00,000/-
6	Loss of Estate and love and affection	Rs.50,000/-
7	Funeral Expenses	Rs.25,000/-
	Total compensation awarded:-	Rs.5,10,340/-
	Enhanced amount of compensation	[(Rs.5,10,340/-)-(Rs.1,20,000/-)] =Rs.3,90,340/-

The enhanced amount of compensation of Rs.3,90,340/- 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

17.09.2015
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