

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

FAO No.265 of 2000

Date of decision: 20.10.2015

Kanta Devi and others

....Appellants

Versus

Sh. Rameshwar Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. R.S. Longia, Advocate
for the appellants.

Mr. Navin Kapur, Advocate
for respondent No.3.

Mr. Ashwani Talwar, Advocate
with Mr. J.S. Chatrath, Advocate
for respondent No.6.

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 01.10.1999, on account of death of Des Raj in a motor vehicular accident which took place on 07.06.1996.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 07.06.1996, Des Raj

along with Raj Kumar, Mohinder, Sudesh Kumar, Rajbir, set out at about 03:00 a.m., from village Sheikhpura Khaddal in District Karnal in a canter bearing registration No.HNL-917 towards Tilak Nagar, Delhi. But, when they reached Piragarh Chowk situated on the crossing of Rohtak road, a truck bearing registration No.RJ-18-G-0586, driven by respondent No.1, namely, Rameshwar Singh, in a rash and negligent manner came from the side of Nagloi, Delhi and dashed against the canter. As a result of this impact, Des Raj received multiple injuries and he was sifted to Din Dayal Hospital, Delhi where he succumbed to the injuries.

In this regard, FIR No.461 dated 07.06.1996, under Sections 279, 337, 304-A IPC, in respect of the accident in question, was got registered at Police Station Pashchim Vihar, Delhi.

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 Rameshwar Singh-respondent No.1 and thus, returned the finding on Issue No.1 in favour of the claimants.

The claim petition was accepted by the Tribunal and a sum of Rs.2,88,800/- was awarded as compensation on account of

death of Des Raj.

The monthly income of the deceased was taken as Rs.2,000/- per month. Out of this, 1/5th amount was deducted towards personal expenses. The monthly dependency of claimants, thus, came to Rs.1,600/- per month and the annual dependency comes to Rs.19,200/- (Rs.1,600 x 12). Des Raj (deceased) was 40 years of age at the time of the accident/death and the multiplier of 14 was applied. Thus, the claimants were found entitled to compensation of Rs.2,68,800/-. In addition to it, further compensation of Rs.20,000/- was awarded on account of transportation of dead body. Hence, the claimants were found entitled to total compensation of Rs.2,88,800/-.

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, *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. Accordingly, keeping in view the fact that the accident took place in the year 1996, the compensation is re-assessed as under:-

SR. NO.	HEADS	CALCULATIONS
(i)	Annual Income (Rs.2,000 x 12)	Rs.24,000/-
(ii)	50% of (i) above to be added as future prospects (Age 40 years)	(Rs.24,000/-) + (Rs.12,000/-) = Rs.36,000/-
(iii)	Dependency of the claimant after deducting 1/10th of (ii) towards personal expenses of the deceased	(Rs.36,000/-) - (Rs.3,600) = Rs.32,400/-
(iv)	Compensation after multiplier of 15 is applied	(Rs.32,400/- x 15) =Rs.4,86,000/-
(v)	Loss of love and affection, transportation and funeral expenses, etc.	Rs.1,00,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.5,86,000/-
(vii)	Enhanced amount of compensation	(Rs.5,86,000/-) – (Rs.2,88,800/-) =Rs.2,97,200/-

The enhanced amount of compensation of **Rs.2,97,200/-** 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

20.10.2015
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