

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.948 of 1997

Date of Decision: 01.09.2015

Mukhtiar Singh and another

.....Appellants

Vs.

Baldev Singh and Others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Inderjit Singh Brar, Advocate for the appellants.

Mr.Tarun Singla, Advocate for respondent No.3.

RITU BAHRI, J.

FAO No.948 of 1997

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Faridkot (hereinafter referred to as 'the Tribunal') vide award dated 11.12.1996 on account of death of Hamir Singh, son of the claimants-appellants.

FACTS NOT IN DISPUTE

The brief facts of the case are that on 15.06.1989 Balwinder Singh son of Mukhtiar singh and Hamir Singh son of Mukhtiar Singh alias Harphool Singh of village Karai wala were going from village Aulakh to Malout on G.T.Road on a Bajaj Chetak Scooter bearing registration No.PJX-5974 which was being driven by Balwinder Singh (deceased) at a slow speed of 40 K.M. per hour and they were being followed by Pws Sukhmander Singh and Chhinderpal on another scooter, when they just crossed village Aulakh, a truck bearing registration No.PAT-3479, which was being driven by Baldev Singh-respondent No.1 rashly and negligently came from the opposite side at a very high speed and when reached near the scooter being driven by Balwinder Singh(deceased)

turned turtle on the scooter resulting into the death of Balwinder Singh and Hamir Singh at the spot. The scooter was also smashed. According to the claimants, the accident took place due to the rash and negligent driving of Baldev Singh-respondent No.1 while driving truck No.PAT-3479 rashly and negligently.

The learned Tribunal after framing the issues returned to the findings that as to whether Balwinder Singh lost his lives due to the rash and negligent driving of Baldev Singh-respondent No.1 on 15.06.1989. The claimants have examined Sukhmander Singh as PW-2 and Chhinder Pal as PW-4. Sukhmander Singh PW-2 stated that he had got FIR registered at police station, the certified copy of which was Ex.PA. The scooter was also smashed and the same facts have deposed by PW-4 Chhinder Pal.

Respondent No.1 Balwinder Singh RW-1 stated that he was an employee of one Shamsher Singh who was owner of the truck which was insured with New India Assurance Company Ltd. Malaut. According to him, he applied brakes of the truck with a view to save the scooterists but the truck turned turtle and fell on the scooterists as a result of which both the scooterists died on the spot. These issues are accordingly decided in favour of the claimants and against the respondents.

COMPENSATION ASSESSED BY THE MACT

The learned Tribunal has granted Rs.50,000/- to the claimants/parents of Hamir Singh (deceased) on account of his death as he was a minor aged 15 years. It was also directed that the claimants/appellants shall also be entitled to recover interest at the rate of 12% per annum on the principal amount from the date of institution of the claim petitions till realization.

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. The deceased died as a result of the accident.

A reference is made in the case of *Smt.Sunita Vs. Sh. Darshan Singh and Others 2013 (3) PLR 255* whereas, on death of a minor child aged 6 years, compensation was enhanced to Rs.2,50,000/-including the component of special damages for loss of child for the mother.

In view of the said judgment, the compensation granted by the learned Tribunal is being enhanced to 2,50,000 from Rs.50,000/- with interest at the rate of 9% from the date of claim petition filed till its realization.;

The enhanced amount of compensation of Rs.2,00,000/- 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

01.09.2015
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