

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1527 of 1998

Date of Decision: 18.12.2015

Bishan Kaur etc.

.....Appellants

Vs.

Kaka Singh and Others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- None for the appellants.

Mr.Vinod Gupta, Advocate for
New India Assurance Company Ltd.

RITU BAHRI, J. (ORAL)

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 06.04.1998 on account of death of Sukhdev Singh in a vehicular accident, son of appellant No.1 and father of appellants No.2 to 4.

FACTS NOT IN DISPUTE

Brief facts of the case are that deceased-Sukhdev Singh alongwith his wife Manjit Kaur was going on a scooter. Tejinder Singh and Gurdev Singh, who are the brothers of Sukhdev Singh-deceased were also going on a separate scooter. The deceased was driving the scooter and his wife Manjit Kaur was sitting on the pillion seat of the scooter. When the deceased and his wife passed ahead of the bus stand of Village Saianwala, a red Mahindra Tractor bearing registration No.PB 05-C-2607 was being driven by Kaka Singh-respondent No.1 in a zig zag manner. The deceased-Sukhdev Singh blew several horns and slowed down the speed of the scooter and took the scooter to the extreme left side of the road, but the driver of the tractor who was driving the tractor rashly and negligently turned the tractor

towards the scooter and as a result hit the scooter. The tractor was totally out of the control of the driver. The deceased fell down from the scooter alongwith his wife. The driver of the tractor ran away. As a result of the accident Sukhdev Singh and his wife Manjit Kaur alias Balbir Kaur multiple injuries and Sukhdev Singh died at the spot. Manjit Kaur died in the hospital at Ludhiana. The accident took place due to the negligence of respondent No.1 and a case under Section 304-4 IPC was registered against him which would be pending in the Courts at Faridkot.

COMPENSATION ASSESSED BY THE MACT

The learned Tribunal on the basis of evidence on record returned the findings that accident took place on account of rash and negligent driving of respondent No.1. The compensation has been assessed keeping in view the income of the deceased-Sukhdev Singh as per last pay drawn i.e. Rs.3519/- as per pay certificate Ex.P1. The total compensation has been assessed by the learned MACT as under:-

Serial No.	Heads	Calculation
1	Income	Rs.3519/- X 12= Rs.42,228/-
2	Deduction (1/3rd)	Rs.42,228/-Rs.14076/-=Rs.28,152/-
3	Multiplier (applied 15 as per age 45 years at the time of death)	Rs.28,152/- X 15= Rs.4,22,280/-
4	Funeral expenses	Rs.2,000/-
	Total	Rs.4,24,280/- rounded of Rs.4,24,500/-

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

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. Accordingly, the compensation is re-assessed as under:-

<i>Sr.No.</i>	<i>HEADS</i>	<i>CALCULATION</i>
1.	Annual income	Rs.3519/- X 12= Rs.42,228/-
2.	30% of (i) above to be added as future prospects (age of deceased between 40 to 50 years)	[Rs.42,228/- + Rs.12668/-] =Rs.54896/-
3.	1/3 th deduction as dependents are two in number	[(Rs.54,896/-)- (Rs.18,299/-)]=Rs.36,597/-
4.	Multiplier (age 45 years)	[Rs.36,597/- X 14]=Rs.5,12,358/-
5.	Love and affection (three minor children and a grand mother since the matter is before year 2000)	Rs.2,00,000/-
6	Funeral Expenses	Rs.25,000/-
	Total	Rs.07,37,358/-
	Enhanced amount of compensation	Rs.07,37,358/- Rs.4,24,500/- =Rs.3,12,858/-

The enhanced amount of compensation of Rs.03,12,858/- 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

18.12.2015
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