

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.769 of 2000

Date of Decision: 09.09.2015

Naresh Singh and Others

.....appellants

Vs.

Sajjan Singh and Anr.

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.R.S.Mamli, Advocate for the appellants.

Mr.S.K.Yadav, Advocate for respondent No.1.

Ms.Gehna Vashnavi, Advocate for respondent No.2.

RITU BAHRI, J. (ORAL)

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Jagadhari (hereinafter referred to as 'the Tribunal') vide award dated 05.11.1999 on account of death of Shamsheer Singh in a vehicular accident, father of the claimants.

FACTS NOT IN DISPUTE

The brief facts of the case are that on 07.06.1997, the deceased Shamsheer Singh alongwith his brother Jarnail Singh who was driving the maruti car bearing registration No.DL2C/2380, were coming from Kurukshetra to their village Sadiqpur and the maruti car was being driven in a very slow speed at its own side by Jarnail Singh and when they reached Sahabad Markanda-Saha Chowk, at about 12 noon, a Jeep No.92B-53326H, which was being driven by respondent No.1 rashly and negligently without blowing any horn, came from Ambala side and struck against the maruti car very badly, to which maruti car fell into the ditch and Jarnail Singh and Shamsheer Singh suffered multiple and grievous injuries. Shamsheer Singh was taken to Civil Hospital Sahabad Markanda

but in the way to hospital, he had died. A case vide FIR No.362 dated 07.06.1997

under Sections 279, 427, 337, 304-A IPC was registered against the respondent No.1 at Police Station Shahbad Markanda.

COMPENSATION ASSESSED BY THE MACT

The learned Tribunal on the basis of evidence on record returned to the findings that accident took place on account of rash and negligent driving of respondent No.1-Sajjan Singh. In the FIR Ex.P3, the factum of accident was confirmed and number of Jeep was also mentioned. Driver/Respondent No.1-Sajjan Singh stepped into the witness box and did not deny the factum of accident but he stated that accident had taken place on account of the negligence of the car driver. The compensation has been assessed keeping in view the salary of the deceased as Rs.6400/- and after imposing 1/3 cut for personal expenses, multiplier of 8 has been applied. Thus, total compensation has been assessed at Rs.4,12,800/-.

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.

The compensation is being re-assessed on the basis of salary certificate placed on record Annexure P-4. A perusal of the same shows that income of the deceased was Rs.6350/- per month at the time of accident and by making addition of other allowances, total salary came into Rs.7533/- per month. As per judgment of ***Vimal Kanwar & Ors. v. Kishore Dan & ors. (2013)7 SCC 476***, all the allowances have been added and considered for assessing the salary of the deceased.

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***

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.6400/- X 12= Rs.76,800/-
2.	30% of (i) above to be added as future prospects	[Rs.76,800/- + Rs.23040/-]=Rs.99840/-
3.	1/3 th deduction as dependents are two in number	[(Rs.99840/-)- (Rs.33280/-)] =Rs.66560/-
4.	Multiplier	[Rs.66560/- X 13]=Rs.08,65,280/-
5.	Loss of love and affection (since the accident took place in 1997 Rs.50,000/- each)	Rs.1,00,000/-
	Total compensation awarded:-	Rs.9,65,280/-
	Enhanced amount of compensation	[(Rs.9,65,280/-)- (Rs.4,12,800/-) =Rs.5,52,480/-

The enhanced amount of compensation of Rs.5,52,480/- 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

09.09.2015