

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

F.A.O No. 913 of 2000

Date of decision:- 26.08.2015

Ishar Kaur and others

...Appellants

Versus

Bhrigu Singh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Arun Jindal, Advocate with
Mr. Rishav Jain, Advocate
for the appellants.

Mr. Neeraj Khanna, Advocate
for respondent No. 3-Insurance Company.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RITU BAHRI J. (Oral)

1. The present appeal has been preferred by the claimants-appellant (for short 'the appellants'), seeking enhancement of the amount of compensation awarded by the learned Motor Accident Claims Tribunal, Patiala (for short, 'the Tribunal') to the tune of Rs.2,52,000/-, vide impugned award dated 05.10.1999.

FACTS NOT IN DISPUTE

2. On 26.10.1996, at about 12.30 P.M, Chattar Singh was coming on his scooter No PJM-4320. His brother Ajit Singh and cousin Harchand Singh were coming on another scooter. They were coming from Patiala City to their village Alipur. Chattar Singh was going ahead

of them, when they reached near Bazigar Basti, Ghamrauda on Patiala-Nabha Road. In the meantime, a truck bearing No. PB-11-F-8485 came from Nabha side, which was being driven in a rash and negligent manner, struck the scooter of Chhatar Singh and he received multiple injuries on his head, mouth, legs and other parts of the body. He was removed to Civil Hospital, Nabha where he succumbed to his injuries. F.I.R No. 86 dated 26.10.1996 Ex P2 was registered against the driver of the truck.

ARGUMENTS ADVANCED

3. The learned counsel for the appellants contends that nothing has been provided towards the future prospects of the deceased. The amount of compensation under the conventional heads is also inadequate and deserves to be enhanced, in view of the judgment of '**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, Asha Verman and others vs. Maharaj Singh and others, 2015(2) RCR (Civil) 520 and Kalpanaraj and others v. Tamil Nadu State Transport Corporation, 2015(2) SCC (Civil) 193.**'.

4. Further the learned counsel for the appellants contends

that the Tribunal has erred in holding that it is a case of contributory negligence and held that the liability of the truck driver towards negligence is 67% and that of the deceased scooter to 33%.

5. On the other hand, the learned counsel for the respondent-Insurance Company have vehemently opposed the present appeal.

6. I have heard learned counsel for the parties and gone through the record.

7. In the instant case, learned Tribunal has rightly come to a conclusion that it is a case of contributory negligence, as the road was 18 feet wide and the road was straight and a trolley was coming. The scooter was overtaking the trolley and in that process, hit against the truck. The front side of the truck hit against the front side of the scooter.

COMPENSATION ASSESSED BY MACT

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.3900/- per month
(ii)	1/3 of (1) deducted as personal expenses of the deceased=	Rs.3900-Rs.1300=Rs2600/- per month
(iii)	Compensation after multiplier of 12 is applied	Rs.2600X 12 X 12= Rs.3,74,400/-
(iv)	Funeral charges	Rs.3600/-
(v)	Total Compensation	Rs.3,78,000/-
(vi)	Contributory negligence 33%	Rs.1,26,000/-
(vii)	Total Compensation awarded	Rs.3,78,000-Rs.1,26,000=Rs.2,52,000/-

Feeling dissatisfied with the impugned award, the claimants-appellants have preferred the present appeal.

RE-ASSESSED COMPENSATION

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

9. In view of the above mentioned judgments of Hon'ble the Supreme Court, the compensation is re-assessed as under:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.3600/- per month
(ii)	30% of (i) above to be added as future prospects=	Rs.3600+Rs.1080=Rs.4,680 per month
(iii)	1/4 of (ii) deducted as personal expenses of the deceased=	Rs.4680-Rs.1170=Rs 3510 per month
(iv)	Compensation after multiplier of 14 is applied	Rs.3510 X 12 X 14= Rs.5,89,680/-
(v)	Loss of consortium to wife	Rs.1,00,000/-
(vi)	Loss of Estate	Rs.1,00,000/-
(vii)	Loss of love and affection to two minor children	Rs.1,00,000/- each
(vi)	Loss of love and affection to mother	Rs.50,000/-
(vii)	Funeral charges	Rs.25,000/-
(viii)	Total Compensation awarded	Rs.10,64,680/-
(ix)	Enhanced amount of compensation	Rs.10,64,680-Rs.2,52,000=Rs.8,12,680/-

8. The enhanced amount of compensation of Rs.8,12,680/- shall be payable within a period of 45 days from the date of receipt of certified copy of this order. The appellants shall also get interest @ 9% per annum on the enhanced compensation amount w.e.f the date of

filing of the claim petition , till its realization, in view of the judgment of Hon'ble the Supreme Court in a 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.

9. Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

August 26, 2015
G Arora

(***RITU BAHRI***)
JUDGE