

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

FAO No.3459 of 1999 (O&M)

Date of decision: 26.11.2015

Smt. Prem Lata and others

.....Appellants

Versus

Yash Pal Gujjar and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Ms. Monika Arora, Advocate,
for the appellants.

Mr. Ravinder Arora, Advocate,
for respondent No.3-Insurance Company.

Ritu Bahri, J.

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 12.08.1999 on account of death of Madan Lal in a vehicular accident, which took place on 25.07.1997. Appellant No.1 is widow, appellant Nos.2 to 4 are daughters and appellant No.5 is son of deceased Madan Lal.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 25.07.1997, Madan Lal along with his father namely Bhagat Ram, was present at bus stand, Karnal and was waiting for a bus as they were to visit at village Garhi Birbal. In the meantime, a bus bearing registration No. HR-45-0836 came there. When Madan Lal tried to board the said bus through front door, suddenly driver of the bus namely Yash Pal Gujjar-respondent No.1 set the same in motion, as a result of which, Madan Lal fell down and was run over by rear wheel of

the bus and died at the spot. With regard to the accident, FIR No.968 under Sections 279/304-A IPC (Ex.P1) was registered at Police Station, City Karnal. 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 of bus bearing registration No.HR-45-0836 by Yash Pal Gujjar-respondent No.1. This finding is based on the deposition of Bhagat Ram (PW-4), who was an eye witness of the accident and on whose statement, FIR (Ex.P1) was recorded. Ultimately, the claim petition was accepted by the Tribunal. The claim was considered keeping in view the salary of deceased-Madan Lal, who was employed as Secretary in the Co-operative Bank, Nagal Madal, Biana. As per salary certificate, he was drawing salary of Rs.5300/- per month. However, amount of Rs.3200/- per month had been deducted on account of the fact that his widow-appellant No.1 had been given appointment on compassionate ground in the same bank, where she was drawing salary to the tune of Rs.3200/- per month. The dependency of claimants, thus, came to Rs.2000/- per month, out of which Rs.332/- were deducted on his personal expenses. Annual dependency came to Rs.20,016/- (1668 x 12). After applying multiplier of 15, total compensation of Rs.3,00,240/- (20,016 x 15) was awarded, which was to be paid with interest at the rate of 12% per annum from the date of filing of the petition till its 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. It stands established that the deceased has died as a result of the accident. Reference can be made to a decision given by the Hon'ble Supreme Court in **Vimal Kanwar and others Vs. Kishore Dan and others**, 2013 (2) RCR (Civil) 945, wherein it has been held that the salary received by the legal heirs/claimant on account of compassionate appointment cannot be reduced while assessing dependency of the claimants.

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 passed in **Vimal Kanwar's** case (supra), **Asha Verman 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 re-assessed as under:-

SR. No.	HEADS	CALCULATION
(i)	Income as per salary certificate	Rs.5300/-
(ii)	30% of (i) above to be added as future prospects	Rs.5300 + Rs.1590 = Rs.6890/-
(iii)	1/4 th of (ii) deducted as personal expenses of the deceased	Rs.6890 – 1700 = Rs.5190/-
(iv)	Compensation after multiplier of 14 is applied	Rs.5190 x 12 x 14 = Rs.8,71,920/-
(v)	Loss of estate	Rs.1,00,000/-
(vi)	Loss of consortium for widow	Rs.1,00,000/-
(vii)	Loss of love and affection for minor children	Rs.4,00,000/- (Rs.1,00,000/- each)

SR. No.	HEADS	CALCULATION
(xiii)	Funeral expenses	Rs.25,000/-
(ix)	TOTAL AWARDED	Rs.14,96,920/-
	Enhanced amount of compensation	Rs.14,96,920 – 3,00,240 = Rs.11,96,680/-

The enhanced amount of compensation of **Rs.11,96,680/-** 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.

26.11.2015
ajp

(RITU BAHRI)
JUDGE