

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.616 of 1998 (O&M)

Date of Decision: 02.09.2015

Gurbachan Singh and another

.....Appellants

Vs.

State of Haryana and another

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- None for the appellant.

Mr.Sharad Kumar Yadav, DAG Haryana.

RITU BAHRI, J.

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Kurukshetra (hereinafter referred to as 'the Tribunal') vide award dated 12.12.1997 on account of death of Gurmej Singh, father of the applicants-claimants. The learned Tribunal has awarded Rs.1,92,000/- as compensation to the claimants on account of death of their father.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 25.02.1997, deceased Gurmej Singh with his family members was going to village Khaira in a maruti car being driven by Balwan Singh. The car was driving by Balwan Singh at a normal speed and on its due left side on the road by observing all the traffic rules and when they reached Shahabad at about 5:15 p.m., a Haryana Roadways Bus bearing registration No.HR37/1062 driven by the respondent driver Rattan Singh very rashly and negligently and without blowing any horn from Shahabad side and struck the maruti car by coming on the wrong side of the road due to which all the occupants of the car including the driver Balwan, suffered multiple, serious and fatal injuries. The driver of maruti car Balwan

Singh died at the spot whereas Rajinder Kaur wife of Gurmej Singh, Dimple alias Poonam daughter of Gurmej Singh and Gurmej Singh died later on. A case bearing FIR No.149 dated 25.02.1997 under Section 279/337/304-A IPC was registered at Police Station Shahabad against the respondent-Driver Rattan Singh. It was further averred by the claimants that the accident took place due to rash and negligent driving of Haryana Roadways Bus bearing registration No.HR37/1062.

COMPENSATION ASSESSED BY THE MACT

FIR No.149 dated 25.02.1997 was registered with regard to the compensation in claim petition No.99 of 1997. The relevant findings have been given by the learned Tribunal in paragraph 35 of the Award and compensation on account of death of Gurmej Singh was assessed by taking his income of Rs.1500/- per month and after deducting 1/3rd personal expenses, multiplier of 16 has been applied. In addition to this Rs.10,000/- was also awarded on account of love and affection. Thus total compensation was awarded to the claimants to Rs.1,92,000/-.

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

REASSESSED COMPENSATION

Learned counsel for the appellant has argued that the income of the deceased has not been correctly assessed in respect of his agricultural land and income from partnership in a firm.

So far as, the income from agricultural land is concerned, appellants did not lead any evidence regarding income from the agricultural land of the deceased nor showed any bank account where some amounts were deposited in this regard. However, some evidence was led by the appellants with regard to the

the deceased was showed 1/6th and further he had paid Rs.1800/- in the year 1997 as per statement of AW 6 Ramesh Chand being partner of the deceased. However, no evidence was led to show the income of the deceased in the years 1996 and 1997.

In the absence of any investment in the bank account of the deceased, learned Tribunal has rightly rejected the earning Rs.10,000/- to 12000/- per month. However, the income of the deceased was taken as Rs.15,00/- per month. The claimants had led sufficient evidence to show that the deceased Gurmej Singh was the partner of 1/6th share in the firm which was evident from the partnership deed Ex.A60 and documents Ex.A76 to Ex.A87.

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.

Since the deceased was a partner in a firm in respect of 1/6th share and he was income tax payee, his income is increased to Rs.2500/- per month from Rs.1500/- per month.

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 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 and General Manager, Kerala State Road Transport Corporation Vs. Susamma Thomas (1994) 2 SCC 176.*

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

Sr.No.	HEADS	CALCULATION
1.	Income	Rs.2500/- per month

2.	50% of (i) Added for future prospect	[Rs.2500/- + Rs.1250/-]=Rs.3750/-
3.	1/3 rd of (2) deducted personal expenses of the deceased	[(Rs.3750/-)-(Rs.1250/-) =Rs.2500/-
4.	Multiplier (deceased was 38 years old)	Rs.2500/- X 15 X 12= Rs.4,50,000/-
9.	All the conventional heads in view of the judgment in the case of <u>General Manager, Kerala State Road Transport Corporation Vs. Susamma Thomas (1994) 2 SCC 176.</u>	Rs.50,000/-
	Total compensation awarded	Rs.5,00,000/-
	Enhanced amount of compensation	[(Rs.5,00,000/-)-(Rs.1,92,000-] =Rs.3,08,000/-

The enhanced amount of compensation of Rs.3,08,000/- 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 partly allowed.

(RITU BAHRI)
JUDGE

02.09.2015
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