

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

F.A.O No. 3028 of 2001

Date of decision:- 07.09.2015

Chhoti Devi and others

...Appellants

Versus

Krishan Kumar and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. K.S. Dhanora, Advocate
for the appellants

Mr. Aseem Aggarwal, Advocate
for respondent No. 3

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-appellants (for short 'the appellants'), against award dated 17.04.2001 passed by the learned Motor Accident Claims Tribunal, Hisar (for short, 'the Tribunal') to the tune of Rs.1,56,000/-.

FACTS NOT IN DISPUTE

2. On 08.06.1999, Mangal Singh (since deceased) was going

from village Samarpura in Tata 407 HR 39/0478 after loading tomatoes for coming to Hisar along with Krishan Kumar driver, who was driving the above vehicle at a very fast speed and when they reached NH-11 (Moharwada) about 8 kms North of P.S Chhomu towards Sikar, one vehicle with dazzling light came from opposite direction and crossed it and Krishan Kumar lost control over the vehicle, which skidded and turned turtle on the road and due to this Mangal Singh received grievous and serious injuries and died at the spot. A criminal case i.e F.I.R under Sections 279/304-A IPC was registered against respondent No. 1 (Ex P2).

3. The learned counsel for the claimant-appellant contends that the compensation awarded by the learned Tribunal is on the lower side and deserves to be enhanced, in view of the judgment ***"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. On the other hand, the learned counsel for the

respondent-Insurance Company have vehemently opposed the present appeal.

5. I have heard learned counsel for the parties and perused the record.

COMPENSATION ASSESSED BY MACT

6. The learned tribunal did not accept the deposition of the mother of the deceased that the deceased was working as Conductor and was getting a salary of Rs.3000/- per month, as the claimants have failed to produce any documentary evidence that the deceased was working as a Conductor and thus took the income of the deceased as Rs.1500/- and his monthly dependency took at Rs.800/- per month and awarded the compensation as below.

Sr. No.	Heads	Calculations
(i)	Salary	Rs.1500/- per month
(ii)	½ th of (i) deducted as personal expenses of the deceased=	Rs.1500-700=Rs.800/- per month
(iii)	Annual Dependency	Rs.800X12=Rs.9600/-
(iv)	Compensation after multiplier of 16 is applied	Rs.9600X16= Rs.1,53,600/-
(v)	Funeral charges	Rs.2000/-
(viii)	Total Compensation awarded	1,55,600/- (rounded of to Rs.1,56,000/-)

RE-ASSESSED COMPENSATION

7. It is not in dispute that the offending vehicle was fully

insured from the Insurance company.

8. Following the ratio of law laid down by Hon'ble the Supreme Court in the above mentioned judgments, the compensation has to be re-assessed as follows:-

Sr. No.	Heads	Calculations
(i)	Salary	Rs.1500/- per month
(ii)	50% of (i) above to be added as future prospects=	Rs.1500+Rs.750=Rs.2250/- per month
(iii)	1/2 of (ii) deducted as personal expenses of the deceased=	Rs.2250-Rs.1125=Rs.1125 per month
(iv)	Compensation after multiplier of 18 is applied	Rs.1125 X 12 X 18= Rs.2,43,000/-
(v)	Loss of estate	Rs.1,00,000/-
(vi)	Loss of love and affection to parents	Rs.50,000/- each
(vii)	Funeral charges	Rs.25,000/-
(viii)	Total Compensation awarded	4,68,000/-
	Enhanced amount of compensation	Rs.4,68,000-Rs.1,56,000=Rs.3,12,000/-

9. Resultantly, the enhanced amount of compensation of Rs.3,12,000/- shall be payable within a period of forty five days 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 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.

10. With the aforesaid modification in the impugned award,
the appeal is allowed to the above extent.

07.09.2015

G Arora

(RITU BAHRI)

JUDGE