

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

**FAO No.3862 of 2001 (O&M)**

**Date of decision: 25.08.2015**

**Smt. Surinder Kaur and others**

**.....Appellants**

**Versus**

**Shankar Yadav and others**

**.....Respondents**

**CORAM:HON'BLE MS. JUSTICE RITU BAHRI**

Present: Mr. Hoshier Singh, Advocate,  
for the appellants.

Mr. R.K. Bashamboo, Advocate,  
for respondent No.5.

**Ritu Bahri, J.**

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Panchkula (hereinafter referred to as 'the Tribunal') vide award dated 07.04.2001 on account of death of Rajesh Kumar in a vehicular accident. Appellant Nos.1 & 2 are parents, whereas appellant Nos.3 & 4 are brothers of deceased Rajesh Kumar.

**FACTS NOT IN DISPUTE**

Brief facts of the case are that on 26.10.1997, deceased-Rajesh Kumar along with his cleaner Suresh Kumar, was coming from Valsad to Pune on a truck/tempo bearing registration No.HR-37-3536, which was being driven by Rajesh Kumar at normal speed. When they reached near Motibara village, one truck bearing registration No.GJ-15-V-7034, being driven by respondent No.1-Shankar Yadav in a very rash and negligent manner, came from opposite. On seeing the truck, Rajesh Kumar slowed down the speed of his tempo and took it at the extreme left side of the road.

However, respondent No.1 brought his truck to the wrong side and struck against the tempo, as a result of which, Rajesh Kumar received injuries and died at the spot. Suresh Kumar, cleaner, also received injuries. A police case was registered with regard to the accident. The accident had occurred due to rash and negligent driving of aforesaid truck by respondent No.1. Consequently, the claimants-appellants filed a claim petition before the Tribunal.

**COMPENSATION ASSESSED BY THE MACT**

As per the depositions of Suresh Kumar (PW-1), Prem Chand, father of deceased (PW-2) and Tushar Bindu, Munshi of Truck Union, Parwanoo (PW-4), deceased-Rajesh Kumar was operating a canter bearing registration No. HR-37-3536, which was owned by him. It was registered at Parwanoo. The deceased was earning Rs.25,000 to Rs.30,000/- per month. On the other hand, the stand of the Insurance Company was that the truck/tempo was jointly owned by the deceased and his father, which was clear from copy of registration certificate (Ex.P21). After the death of Rajesh Kumar, the truck was owned by his father and he was getting income from the same. On the basis of evidence led by the parties, particularly the testimony of eye witness namely Suresh Kumar (PW-1), the Tribunal came to a conclusion that the accident had taken place on account of rash and negligent driving of truck bearing registration No.GJ-15-V-7034 by Shankar Yadav-respondent No.1. Ultimately, the claim petition was accepted by the Tribunal and a sum of Rs.3,19,000/- was awarded as compensation on account of death of Rajesh Kumar along with interest at the rate of 9% per annum from the date of filing of the petition till its realization. The income of the deceased was assessed at Rs.3000/- per month, out of which 1/3<sup>rd</sup>

amount was deducted towards personal expenses. The dependency of claimants, thus, came to Rs.2000/- per month approximately, which came to Rs.24,000/- per annum. Rajesh Kumar (deceased) was 25 years of age at the time of the accident/death. Since the deceased was unmarried at the time of death, therefore, the multiplier of 13 was applied keeping in view the age of his parents. Thus, the claimants were found entitled to compensation of Rs.3,12,000/- (24,000 x 13 = Rs.3,12,000). In addition to it, further compensation of Rs.5000/- was awarded for transportation of the dead body from Gujrat and Rs.2000/- were awarded as funeral charges etc. Hence the claimants were found entitled to total compensation of Rs.3,19,000/-.

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.

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 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                                                          | Rs.3000/- per month                                     |
| (ii)    | 50% of (i) above to be added as future prospects (Age 25 years) | Rs.3000 + Rs.1500 = Rs.4500/-                           |
| (iii)   | 1/2 of (ii) deducted as personal expenses of the deceased       | Rs.4500 - 2250 = Rs.2250/-                              |
| (iv)    | Compensation after multiplier of 18 is applied                  | Rs.2250 x 12 x 18 = Rs.4,86,000/-                       |
| (v)     | Loss of love and affection                                      | Rs.1,00,000/- (Rs.50,000/- each to the parents)         |
| (vi)    | Funeral expenses                                                | Rs.25,000/-                                             |
| (vii)   | <b>TOTAL COMPENSATION AWARDED</b>                               | <b>Rs.6,11,000/-</b>                                    |
|         | <b>Enhanced amount of compensation</b>                          | <b>Rs.6,11,000 – 3,19,000</b><br><b>= Rs.2,92,000/-</b> |

The enhanced amount of compensation of **Rs.2,92,000/-** 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 is partly allowed.

25.08.2015  
ajp

(RITU BAHRI)  
JUDGE