

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

**FAO No.3891 of 2001 (O&M)
Date of decision: 04.12.2015**

Ninder Kaur and others

....Appellants

Versus

Jagdish and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Ms. Divya Godara, Advocate,
for the appellants.

Mr. Charanji Lal, Advocate,
for Mr. Kamal Sehgal, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Sirsa (hereinafter referred to as 'the Tribunal') vide award dated 19.04.2001, on account of death of Satnam Singh in a motor vehicular accident which took place on 20.04.1998. Appellant No. 1 is widow, whereas appellant Nos.2 and 3 are children of deceased Satnam Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 20.04.1998, deceased-Satnam Singh had gone to meet Inder Singh, resident of Ellenabad. They were sitting on a cot which was placed in a vacant land near the house of Inder Singh. His neighbour namely Dara Singh son of Dalip Singh also came there. Thereafter, Satnam Singh went off to sleep, whereas the other two

stood in front of the house in order to discuss about some incident. In the meantime, a truck bearing registration No. HYN-5501 being driven by Jagdish-respondent No.1 in a rash and negligent manner, came there and crushed Satnam Singh while he was sleeping on a cot. A calf was also crushed under the said truck. As a result of this accident, Satnam Singh and the calf died at the spot. The matter was also reported to the police by Inder Singh. 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 had been caused on account of rash and negligent driving of offending truck by Jagdish-respondent No.1 and thus, returned the finding on Issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of Inder Singh (PW-2), who was an eye witness of the accident and had lodged FIR (Ex.P2). Ultimately, the claim petition was accepted by the Tribunal and a sum of Rs.7,00,000/- was awarded as compensation on account of death of Satnam Singh. As per salary certificate (Ex.P1), he was employed with Food Corporation of India and was earning a sum of Rs.5394/- per month. Accordingly, income of the deceased was taken as Rs.5400/- per month. Out of this, 1/3rd amount was deducted towards personal expenses of deceased. The dependency of claimants, thus, came to Rs.3600/- per month. i.e. Rs.43,200/- per annum. As per postmortem report, the deceased was 35 years of age at the time of accident/death and the multiplier of 16 was applied. Thus, the claimants were found entitled to compensation of Rs.6,91,200/- (Rs.43,200/- x 16).

The amount was rounded off to Rs.7,00,000/- by allowing the remaining

amount towards loss of consortium suffered by appellant No.1. Hence, the claimants were found entitled to total compensation of Rs.7,00,000/- along with interest @ 9% per annum from the date of filing of the petition till 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. 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, ***New India Assurance Company Limited vs Gopali and others***, 2012 (12) SCC 198, ***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, as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.5400/- per month
(ii)	50% of (i) above to be added as future prospects	5400 + 2700 = Rs.8100/-
(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased (three dependents)	8100 – 2700 = Rs.5400/-
(iv)	Compensation after multiplier of 16 is applied	Rs.5400/- x 12 x 16 = Rs.10,36,800/-
(v)	Loss of consortium for the widow	Rs.1,00,000/-
(vi)	Loss of estate	Rs.1,00,000/-

(vii)	Loss of love and affection for the children	Rs.2,00,000/- (Rs.1,00,000/- each)
(viii)	Funeral expenses	Rs.25,000/-
(ix)	TOTAL COMPENSATION AWARDED	Rs.14,61,800/-
(x)	Enhanced amount of compensation	Rs.14,61,800 – 7,00,000 = Rs.7,61,800/-

The enhanced amount of compensation of **Rs.7,61,800/-** 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.

(RITU BAHRI)
JUDGE

04.12.2015
ajp