

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

FAO No.935 of 2003 (O&M)

Date of decision: 05.10.2015

Smt. Kamla Devi and others

....Appellants

Versus

Munshi Ram and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Amandeep Rana, Advocate
for Mr.Sunil Panwar, Advocate
for the appellants.

Mr. Pardeep Goyal, Advocate
for respondent No.3.

RITU BAHRI J. (Oral)

CM No.4319-CII of 2003

For the grounds mentioned in the application, the same is allowed and the delay of 37 days in filing the appeal stands condoned.

MAIN CASE

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Gurgaon (hereinafter referred to as 'the Tribunal') vide award dated 25.09.2002, on account of death of Shiv Narain in a motor vehicular accident which took place on 10.04.1999.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 10.04.1999, Shiv Narain (deceased), his brother Shis Ram and his cousin Hari Singh were coming to their home at village Badshahpur after meeting Sh. Anil Kumar Yadav, Advocate, in connection with the divorce petition of Deepa Rani. Shiv Narain (deceased) was driving his scooter bearing registration No.HR-26-D-1487, at a normal speed on the correct left hand side of the road, whereas his brother was driving his scooter bearing registration No.MP-09-JD-5975 and his cousin was sitting on the pillion seat. At about 09:00 p.m., when they just crossed Raghav Associates on Sohna-Gurgaon road, a dumper which was going ahead of them suddenly took abrupt breaks without giving any signal. As a result of which, the scooter of the deceased entered below the truck despite his taking breaks and the deceased received fatal injury on his forehead which resulted in his death.

In this regard, FIR No.209 dated 10.04.1999, under Sections 279, 304-A IPC, in respect of the accident in question, was got registered at Police Station Sadar, Gurgaon.

Consequently, the claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

Before the Tribunal, Shis Ram, PW-5 who is an eye-witness has stated that the FIR No.209 dated 10.04.1999, with

regard to the accident, was got registered by him. PW-2 Neeraj Kumar, Addl. Ahlmad on the basis of summoned record brought by him, deposed that in case State vs. Munshi son of Kishan, FIR No.209 dated 10.04.1999 under Sections 279, 304-A IPC, charge has been framed on 28.02.2000 and the case is fixed for prosecution evidence. According to him, the offending vehicle is truck bearing registration No.DL-1GA-4350. PW-3, HC Ranbir Singh, has deposed that Munshi Ram son of Kishan has been challaned by the police after investigation in case FIR No.209 dated 10.04.1999. PW-4, Smt. Kamla, stated that her husband died in a road accident. PW-1, Dr. Sanjay Narula stated that he has conducted the post-mortem on the body of Shiv Narain on 11.04.1999 and proved his report Ex.PA. Thus, the Tribunal has rightly returned the finding on Issue No.1 in favour of the claimants-appellants.

Ultimately, 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 by Munshi Ram-respondent No.1. The claim petition was accepted by the Tribunal and a sum of Rs.6,34,000/- was awarded as compensation on account of death of Shiv Narain.

The monthly income of the deceased was assessed at Rs.6,000/- per month, out of which 1/3rd amount was deducted towards personal expenses. The dependency of claimants, thus,

came to Rs.4,000/- per month, which came to Rs.48,000/- per annum. Shiv Narain (deceased) was 45 years of age at the time of the accident/death and the multiplier of 13 was applied. Thus, the claimants were found entitled to compensation of Rs.6,24,000/-. In addition to it, further compensation of Rs.5,000/- was awarded on account of loss of consortium and Rs.5,000/- was awarded towards funeral expenses. Hence, the claimants were found entitled to total compensation of Rs.6,34,000/-.

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	CALCULATIONS
(i)	Annual Income (Rs.6,000/- x 12)	Rs.72,000/-
(ii)	30% of (i) above to be added as future prospects (Age 45 years)	(Rs.72,000/-) + (Rs.21,600/-) = Rs.93,600/-
(iii)	Dependency of the claimant after deducing 1/5th of (ii) towards personal expenses of the deceased	(Rs.93,600/-) - (Rs.18,720) = Rs.74,880/-
(iv)	Compensation after multiplier of 14 is applied	(Rs.74,880/- x 14) =Rs.10,48,320/-
(vi)	Loss of love and affection, consortium and funeral expenses	Rs.1,00,000/-
(ix)	TOTAL COMPENSATION TO BE AWARDED	Rs.11,48,320/-
(x)	Enhanced amount of compensation	(Rs.11,48,320/-) – (Rs.6,34,000/-) =Rs.5,14,320/-

The enhanced amount of compensation of **Rs.5,14,320 /-** 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

05.10.2015
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