

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

**FAO No.4724 of 2005 (O&M)
Date of decision: 09.12.2015**

Palwinder Kaur and others

....Appellants

Versus

Satpal and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Manvinder Sidhu, Advocate,
for Mr. G.S. Sidhu, Advocate,
for the appellants.

Mr. V. Ramaswaroop, 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 14.02.2005, on account of death of Surinder Singh in a motor vehicular accident which took place on 29.09.2001. Appellant No. 1 is widow, appellant Nos.2 & 3 are children and appellant No.4 is mother of deceased Surinder Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 29.09.2001, deceased-Surinder Singh and with Gurmej Singh were going from village Sikanderpur, District Sirsa towards Truck Unin, Sirsa on a motorcycle. The motorcycle was being driven by Surinder Singh at a moderate speed. At about 8.30 A.M., when they reached near general bus stand, Hisar road,

Sirsa, a truck bearing registration No. HR-39-7692 being driven by Satpal-respondent No.1 in a rash and negligent manner, came from behind and struck in their motorcycle, as a result of which, both the occupants of motorcycle i.e. Surinder Singh and Gurmej Singh received injuries. Surinder Singh died on the spot, whereas, Gurmej Singh was taken to Civil Hospita, Sirsa, where he was medico legally examined. The accident was witnessed by Baldev Singh, on whose statement, FIR No.529 dated 29.09.2001, under Section 279/337/304-A IPC was registered at Police Station, City, Sirsa. 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 Satpal-respondent No.1, as a result of which Surinder Singh has died and Gurmej Singh suffered multiple and grievous injuries 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 Gurmej Singh (PW-2) and Baldev Singh (PW-5), who was an eye witness of the accident and on whose statement, FIR Ex.P-103 was registered. Ultimately, the claim petition was accepted by the Tribunal. The income of the deceased was taken as Rs.10,000/- per month. Out of this, 1/3rd amount was deducted towards personal expenses of deceased. The dependency of claimants, thus, came to Rs.6700/- per month i.e. Rs.80,400/- per annum. As per postmortem report (Ex.P104), the deceased was 30-32 years of age at the time of accident/death and the multiplier of 13 was applied. Thus, the claimants were found entitled to compensation of Rs.10,45,200/- (Rs.80,400

x 13). In addition to it, Rs.25,000/- were awarded towards loss of consortium to widow-Palwinder Kaur and and Rs.25,000/- for funeral expenses and transportation of dead body. Hence, the claimants were found entitled to total compensation of Rs.10,95,200/- 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.10,000/- Per month
(ii)	50% of (i) above to be added as future prospects	10,000 + 5,000 = Rs.15,000/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	15,000 – 3750 = Rs.11,250/-
(iv)	Compensation after multiplier of 16 is applied	Rs.11,250/- x 12 x 16 = Rs.21,60,000/-

(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)	Loss of love and affection for the mother-appellant No.4	Rs.50,000/-
(ix)	Funeral expenses	Rs.25,000/-
(x)	TOTAL COMPENSATION AWARDED	Rs.26,35,000/-
(xi)	Enhanced amount of compensation	Rs.26,35,000 – 10,95,200 = Rs.15,39,800/-

The enhanced amount of compensation of **Rs.15,39,800/-** 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

09.12.2015
ajp