

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

FAO No. 2546 of 2007

Date of decision:- 20.08.2015

Santosh Devi and others

...Appellants

Versus

Abhishek and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Ms. Amrita Nagpal, Advocate
for the appellants.

Mr. Dhawaljeet Singh, Advocate
for respondent No. 2.

Mr. Paul. S. Saini, 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.

1. The present appeal has been preferred by the claimants-appellants (for short 'the appellant'), seeking enhancement of the amount of compensation awarded by the learned Motor Accident Claims Tribunal, Faridabad (for short, 'the Tribunal') to the tune of Rs.4,96,000/- along with interest @ 7.5 per cent from the date of filing of the petition till the amount is deposited in the Court, vide

impugned award dated 19.07.2006

FACTS NOT IN DISPUTE

2. On 27.11.2004, Partap Singh was coming from Delhi on a motorcycle and was going towards Chawla Colony vis Suraj Kund Road and when he reached near Badkhal Pulia, a car bearing registration NO. DL-6-CG-7147 being driven by respondent No. 1 rashly and negligently came on the wrong side and hit against the motorcycle of the Partap Singh, which resulted into his death. This accident was witnessed by Sh. Ram Babu and post mortem on the dead body of Partap Singh was conducted in B.K. Hospital. F.I.R No. 994 dated 27.11.2004 was lodged against respondent No. 1.

Arguments

3. Learned counsel for the appellant contends that the Tribunal has erred in awarding the compensation to the appellants, in view of the judgment of '***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***', '***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.

COMPENSATION ASSESSED BY THE MACT

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.32400/- annually
(ii)	Compensation on account of loss of dependency and future expectations	Rs.32400X15=Rs.4,86,000/-
(iii)	Compensation on account of loss of consortium	5000/-
(iv)	Compensation on account of loss of estate	Rs.2500/-
(v)	Compensation on account of funeral expenses	Rs.2500/-
	Total Compensation awarded	Rs.4,96,000/-

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 filed.

The fact of accident is admitted and proved. The deceased died as a result of the accident. The learned Tribunal has fell in error while deducting Rs.3800/- per month from the total salary i.e Rs.9760 of the deceased, which Santosh Devi is getting as family pension.

Reference can be made to a judgment of Hon'ble the Supreme Court in a case of ***Lal Dei and others v. Himachal Road Transport, 2007***

(8) SCC 319 wherein in para 4 of the judgment, it has been observed as under:-

4. XXX XXX XXX

The Motor Accidents Claims Tribunal as well as the High Court could not have deducted the amount of family pension given to the family while calculating the dependency of the claimants. In Helen C. Rebello vs. Maharashtra SRTC, this Court has specifically dealt with this question and said that the family pension is earned by an employee for the benefit of his family in the form of his contribution in the service in terms of the service conditions receivable by the heirs after his death. The heirs receive family pension even otherwise than the accidental death. There is no co-relation between the two and therefore, the family pension amount paid to the family cannot be deducted while calculating the compensation awarded to the claimants.”

In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed in view of the above mentioned judgments.

Sr. No.	Heads	Calculations
(i)	Salary	Rs.9760/- per month
(ii)	30% of (i) above to be added as future prospects=	Rs.9760+Rs.2928=Rs.12688/- per month
(iii)	1/4 of (ii) deducted as personal expenses of the deceased=	Rs.12688-Rs.3172=Rs.9516/- per month
(iv)	Compensation after multiplier of 17 is applied	Rs.9516X 12 X 14= Rs.15,98,688/-
(v)	Loss of consortium to wife	Rs.1,00,000/-
(vi)	Loss of estate	Rs.1,00,000/-
(vii)	For love and affection to minor children	Rs.1,00,000/- each to three minor children
(viii)	Funeral charges	Rs.25,000/-
(ix)	Total Compensation awarded	Rs.21,23,688/-
	Enhanced amount of compensation	Rs.21,23,688-Rs.4,96,000=Rs.16,27,688/-

8. The enhanced amount of compensation of Rs.16,27,688/- shall be payable within a period of 45 days from the date of receipt of certified copy of this order. The appellants shall also get interest @ 9% per annum on the enhanced compensation amount w.e.f 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.

9. Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

August 20, 2015

G Arora

(**RITU BAHRI**)
JUDGE

GAURAV ARORA
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I attest to the accuracy and
integrity of this document