

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

F.A.O No. 2748 of 2007

Date of decision:- 17.11.2015

Gian Wati and others

...Appellants

Versus

Hari Chand and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Ms. Kamaljeet Kaur, Advocate for
Mr. Adarsh Jain, Advocate
for the appellants.

Ms. Minkal Rawal, Advocate for
Mr. S.K. Panwar, Advocate
for respondent No. 1 and 2.

Mr. Rajnish Malhotra, Advocate, for respondent No. 3

RITU BAHRI J. (Oral)

1. The present appeal has been preferred by the claimants-appellants (for short 'the appellants'), 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. 4,00,000/-, vide impugned award dated 24.03.2007.

FACTS NOT IN DISPUTE

2. On 29.10.2004, Dhan Singh (since deceased) along with Sita Ram were going from Palwal to their village Deeghot on separate cycles and when they reached in front of Ata Chakki of Jagdish in village Bamnikherea, one motorcycle bearing No. HR-30-C-5034 came

from Palwal side being driven at a very high speed and in a negligent manner, hit the cycle of the deceased-Dhan Singh from behind by respondent No 1, as a result of he received multiple and grievous injuries and died on the way to hospital. F.I.R No. 522 dated 29.10.2004 has been registered in this regard on the statement of Sita Ram.

3. The learned counsel for the appellants contends that the Tribunal has erred in awarding the compensation, 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**' and '**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.

5. I have heard learned counsel for the parties and gone through the record.

6. The learned Tribunal while granting the compensation to

the appellants had assessed the income of the deceased at Rs.3750/- per month and $\frac{2}{3}^{\text{rd}}$ was deducted as personal expenses and the dependency comes to Rs.2500/- and the annual dependency comes to Rs.30,000/- and applied the multiplier of 13 and the amount comes to Rs.3,90,000/- and Rs.10,000 was awarded towards loss of consortium, expenses of last rights, conventional amount etc.

7. In the instant case, the deceased was 35 years of age at the time of the accident. The deceased was working as mason. The accident in question is not in dispute and the offending vehicle was fully insured with the Insurance Company.

8. In view of the above mentioned judgments, the compensation is re-assessed as under:-

Sr. No.	Heads	Calculations
(i)	Salary	Rs.3750X12= Rs.45,000/-per annum
(ii)	50% of (i) above to be added as future prospects=	Rs.45000+Rs.22500=Rs.67,500/- per annum
(iii)	1/4 of (ii) deducted as personal expenses of the deceased=	Rs.67500-Rs.16875=Rs.50625/- per annum
(iv)	Compensation after multiplier of 16 is applied	Rs.50625X 16= Rs.8,10,000/-
(v)	Loss of consortium to wife	Rs.1,00,000/-
(v)	Loss of estate	Rs.1,00,000/-
(vi)	For love and affection to two children	Rs.2,00,000/- (Rs. 1 lac each to two children)
(vii)	For love and affection to mother	Rs.50,000/-
(vii)	Funeral charges	Rs.25,000/-
	Total Compensation awarded	Rs.12,85,000/-
	Enhanced amount of compensation	Rs.12,85,000-Rs.4,00,000=Rs.8,85,000/-

9. The enhanced amount of compensation of Rs.8,85,000/- shall be payable within a period of forty five days 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 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.

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

November 17, 2015

G Arora

(***RITU BAHRI***)
JUDGE¹