

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.2579 of 2006

Date of Decision: 02.09.2015

Pawan Kumar and another

.....Appellants

Vs.

Nirmal Kumar and Others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Ms.Harmanpreet Kaur, Advocate for the appellants.

Mr.R.C.Kapoor, Advocate for the
respondent/Insurance Company.

RITU BAHRI, J.

FAO No.2579 of 2006

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Ambala (hereinafter referred to as 'the Tribunal') vide award dated 16.02.2006 on account of death of their son Navdeep @ Kaku.

FACTS NOT IN DISPUTE

On 23.06.2003, Yogesh Kumar Jindal (deceased) alongwith Navdeep Kumar alias Kaku (deceased), Sonu Jindal and Smt.Anita Rani were travelling in Maruti Van bearing No.HR-05M-0038, which was being driven by Nirmal Kumar-respondent No.1 in a rash and negligent manner inspite of the fact that there was rain and there was also not proper visibility. He did not slow down speed of van despite request being made by all the occupants of the van. At about 8.30 am van reached near petrol pump within the area of village Hamidpur, Tehsil and Distt. Ambala on Ambala-Jagadhari Road. However, driver of the van lost control and the same went off the road and fell in a ditch

occupants of the van suffered multiple injuries. Yogesh Jindal succumbed to the injuries at the spot. Navdeep Kumar alias Kaku also expired on account of the injuries. The deceased Navdeep alias Kaku was an engineering student. He was only son of the claimants who are his parents. Learned Tribunal after framing of issues and on the basis evidence on record found that the driver was responsible for causing the death of Yogesh Kumar Jindal and Navdeep Kumar and also for injuries of Anita and Sonu Jindal.

COMPENSATION ASSESSED BY THE MACT

The compensation has been assessed by the learned Tribunal in respect of the death of Navdeep @ Kaku as per post-mortem report Ex.P14 and copy of his birth certificate Ex.P-15. As per his birth certificate, the date of birth was 18.07.1985 . Hence, he was about 18 years of age on the date of accident. He was a student. His notional income was taken as Rs.15,000/- per annum as per second schedule attached to Section 163-A of the Motor Vehicle Act and after applying a cut of 1/3rd his dependency was taken to Rs.10,000/- per annum. By applying a multiplier of 13 including an amount of Rs.5,000/- towards expenditure of transportation and last rites, total compensation was assessed by the learned Tribunal as Rs.1,35,000/-

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. The deceased died as a result of the accident.

The compensation is being re-assessed in view of the Hon'ble Supreme Court judgment in the case of **Krishan Gopal Vs. Lala 2013(4) RCR**

old had taken the notional income as Rs.30,000/- per annum and while referring to the second schedule under Section 163 of the Act, it was observed that since the schedule was made applicable in the year 1994 and since then the value of rupees had come down. The notional income fixed Rs.15,000/- per annum under Clause-6 and the 2nd Schedule was modified and it was increased to Rs.30,000/-per annum.

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 Verma 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 is re-assessed as under:-

<i>Sr. No.</i>	<i>HEADS</i>	<i>CALCULATION</i>
1.	Income	Rs.30000/- per annum
2	Add 50% as future prospects	(Rs.30,000/- + Rs.15,000/-) =Rs.45,000/-
3	Deduction of 50% of (2) as personal expenses	(Rs.45,000/-)- (Rs.22,500/-)=22,500
4	Multiplier (As per Hon'ble Supreme Court judgment in the case of <i><u>Sarla Verma and Others Vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77</u></i>)	[Rs.22,500 X 18]=Rs.4,05,000/-
5	Love and affection for parents (Rs.50,000/- each)	Rs.1,00,000/-
6	Loss of estate	Rs.1,00,000/-
7	Funeral Expenses	Rs.25,000/-
	Total compensation awarded	Rs.6,30,000/-
	Enhanced amount of compensation	[(Rs.6,30,000/-)- (Rs.1,35,000-)] =Rs.4,95,000/-

The enhanced amount of compensation of Rs.4,95,000/- 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

02.09.2015
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