IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.3996 of 2007 (O&M)
Date of decision: 20.11.2015

Amarjeet Kaur

….Appellant

Versus

Smt. Jasveer Kaur and others

….Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. J.S. Ahluwalia, Advocate,
for the appellant.

Mr. Vaibhav Sehgal, Advocate,
for respondent Nos.1 and 2.

Mr. Ramandeep Singh, Advocate,
for Mr. H.S. Dhanda, Advocate,
for respondent Nos. 3 and 4.

Mr. Sandeep Kotla, Advocate,
for respondent No.5.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Ludhiana (hereinafter referred to as 'the Tribunal') vide award dated 28.07.2007, on account of death of Ranjit Singh in a motor vehicular accident which took place on 13.05.2006. Appellant is mother, respondent No.1 is widow and respondent No.2 is daughter of deceased Ranjit Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 13.05.2006, at about 3.30 P.M. deceased-Ranjit Singh along with his wife and daughter was going on a motorcycle bearing registration No. PB-69-5282 from village Dhah Bhai to Ludhiana. When they reached near Crystal Resorts Marriage Palace, a truck bearing registration No. PB-10-F-6481, being driven by Baljeet Singh-respondent No.3 (respondent No.1 in claim petition) in a rash and negligent manner and at a very high speed, came from the opposite side and struck against the motorcycle of Ranjit Singh, as a result of which, all the occupants of motorcycle felldown on the road and suffered multiple grievous injuries. They were taken to DMC, Ludhiana, but Ranjit Singh succumbed to the injuries. With regard to the accident, FIR (Ex.P1) was recorded against respondent No.3-Baljeet Singh. Consequently, the claimants-respondent Nos.1 and 2 filed a claim petition before the Tribunal, wherein present appellant was arrayed as respondent No.4.

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 Baljeet Singh-respondent No.1 and thus, returned the finding on Issue No.1 in favour of the claimants. This finding has been rightly given on the basis of deposition of Jasveer Kaur (PW-1), who was an injured eye witness of the accident. The income of deceased was assessed as Rs.4000/- per month. Out of this, 1/3rd amount was deducted towards personal expenses of deceased. The dependency of claimants, thus, came to Rs.2667/- per month. As per postmortem report, the deceased was 34 years of age at the time of death/accident and multiplier of 15 was applied. Thus, the claimants were found entitled to compensation of Rs.4,80,060/- (2667 x 12 x 15). Apart from this, some amount was awarded on account of medical treatment and funeral expenses of the deceased. In total, the claimants and appellant were awarded a sum of Rs.5,00,000/- as compensation along with interest @ 7½% per annum from the date of filing of the petition till realization. Out of this amount, appellant was given a sum of Rs.40,000/-. Feeling dissatisfied with the impugned award, the appellant has 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. Income tax return for the assessment year 2005-06 (Ex.P11) shows that the income of deceased was around Rs.85,000/- per annum, which has not been accepted by the Tribunal simply on the ground that the same did not bear permanent account number of the assessee. Hence, it was observed that the deceased was not an income tax payee before filing of this return.

This observation of the Tribunal is liable to be reversed, as absence of any permanent account number cannot be a ground to reject the income tax return. Moreover, perusal of income tax return (Ex.P11) shows that it bears acknowledgement of Income Tax Department. The original thereof could not be produced as assessee retained only photocopy of the same. Moreover, this income tax return was submitted on 01.08.2005 and the accident had taken place on 13.05.2006. Hence, on the date of accident, this return had already been filed. Therefore, the same should have been taken into consideration by the Tribunal at the time of assessing income of the deceased.

Accordingly, 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.85,000/- per annum
(ii)	50% of (i) above to be added as future prospects	85,000 + 42,500 = Rs.1,27,500/-
(iii)	1/3rd of (ii) above is deducted as personal expenses of the deceased	1,27,500 – 42,500 = Rs.85,000/-
(iv)	Compensation after multiplier of 16 is applied	Rs.85,000/- x 16 = Rs.13,60,000/-
(v)	Loss of consortium for the widow-respondent No.1	Rs.1,00,000/-
(vi)	Loss of estate	Rs.1,00,000/-
(vii)	Loss of love and affection for the daughter-respondent No.2.	Rs.1,00,000/-
(viii)	Loss of love and affection for the mother-appellant	Rs.50,000/-
(ix)	Medical treatment of deceased	Rs.50,000/-
(x)	Funeral expenses	Rs.25,000/-
(xi)	**TOTAL COMPENSATION AWARDED**	**Rs.17,85,000/-**
(xii)	**Enhanced amount of compensation**	**Rs.17,85,000 – 5,00,000 = Rs.12,85,000/-**

The enhanced amount of compensation of **Rs.12,85,000/-** 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

20.11.2015
ajp