

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

FAO No.907 of 2005

Date of decision: 21.09.2015

Neeta Aggarwal

.....Appellant

Versus

Tarsem Singh and another

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Arun Bansal, Advocate,
for the appellant.

Mr. R.N. Singhal, Advocate,
for respondent No. 2.

Ritu Bahri, J.

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Sangrur (hereinafter referred to as 'the Tribunal') vide award dated 06.01.2005 on account of death of Naranjan Dass Jain in a vehicular accident. Appellant is daughter of deceased Naranjan Dass Jain.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 01.11.2003, Naranjan Dass (deceased) was returning from Chandigarh to Malerkotla in a car bearing registration No. CH03-H-5654, which was being driven by driver-Man Bahadur. At about 11.55 p.m., when they reached near Chamar Heri village, a tractor-trolley bearing registration No. PUB-778, being driver by Tarsem Singh-respondent No.1 in a rash and negligent manner, came from the side of Patiala and struck against their car, as a result of which, both the occupants of the car received multiple injuries. Later on, Naranjan Dass

succumbed to the injuries. With regard to the accident, an FIR was

registered at the instance of Man Bahadur. Consequently, the claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

The Tribunal, on the basis of evidence led by the parties, gave finding on issue No.2 in favour of the claimant by observing that the accident took place on account of rash and negligent driving of Tractor-trolley No. PUB-778 by Tarsem Singh-respondent No.1. This finding was based on the deposition of Man Bahadur (PW-2), who was an eye witness of the accident and even in cross-examination, the credibility of this witness could not be shaken. He had also deposed that he had lodged a report with the police, on the basis of which, FIR (Ex.P2) was registered. Driver of the offending tractor-trolley did not appear before the Tribunal and was proceeded against exparte. Ultimately, the claim petition was accepted by the the tribunal and a sum of Rs.1,22,000/- was awarded as compensation on account of death of Naranjan Dass along with interest at the rate of 9% per annum from the date of filing of the petition till its realization. The income of the deceased was assessed as Rs.2500/- per month i.e. Rs.3000/- per annum, out of which 1/3rd amount was deducted towards personal expenses. The dependency of claimant, thus, came to Rs.20,000/- per annum. The deceased was 58 years of age at the time of the accident/death and the multiplier of 6 was applied. Thus, the claimant was found entitled to compensation of Rs.1,20,000/-. In addition to it, further compensation of Rs.2000/- was awarded towards funeral expenses. Hence the claimant was found entitled to total compensation of Rs.1,22,000/-.

Feeling dissatisfied with the impugned award, the claimant-appellant has preferred the present appeal.

Learned counsel for the appellant has referred to the deposition of

Neeta Aggarwal (PW-1), in which she has stated that her father was a businessman and was earning about Rs.1,89,000/- per year as per income tax return. A perusal of income tax return of Naranjan Dass-deceased for the assessment year 2002-03 shows that he was having an income of Rs.1,89,009/- per annum and after deducting the income tax to the tune of Rs.20,464, his annual income came to be about Rs.1,68,545/-. Hence, finding recorded by the Tribunal on account of income of the deceased as daily wage requires to be set aside. Now the compensation is being reassessed by taking the income of the deceased as Rs.1,68,545/-.

Learned counsel for the Insurance Company has argued that the claimant was a married daughter of the deceased and she was not dependent upon him. However, as per the deposition of PW-1 and PW-3, it has been stated that she was living with her father after having strained relationship with her husband. Hence, she is entitled for compensation.

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 **Vimal Kanwar and others Vs. Kishore Dan and others**, 2013 (3) Accidents Claims Journal 1441, **Asha Verman 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

(3) Recent Apex Judgments 459. Accordingly, the compensation re-assessed as under:-

SR. No.	HEADS	CALCULATION
(i)	Income	Rs.1,68,545 /- per year
(ii)	15% of (i) above to be added as future prospects	Rs.1,68,545 + Rs.25,282 = Rs.1,93,827/-
(iii)	1/3 rd of (ii) deducted as personal expenses of the deceased	Rs.1,93,827 – 64,609= Rs.1,29,218/-
(iv)	Compensation after multiplier of 9 is applied	Rs.1,29,218 x 9 = Rs.11,62,962/-
(v)	Loss of estate	Rs.1,00,000/-
(vi)	Loss of love and affection for daughter	Rs.1,00,000/-
(xii)	Funeral expenses	Rs.25,000/-
(xiii)	TOTAL COMPENSATION AWARDED	Rs.13,87,962/-
	Enhanced amount of compensation	Rs.13,87,962 – 1,22,000 = Rs.12,65,962/-

The enhanced amount of compensation of **Rs.12,65,962/-** 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.

21.09.2015
ajp

(RITU BAHRI)
JUDGE