

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

**FAO No.3211 of 2008 (O&M)
Date of decision: 22.09.2015**

Jaswinder Kaur and others

....Appellants

Versus

Sukhwinder Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Mohd. Yousaf, Advocate
for the appellants.

Mr. Vinod Chaudhary, Advocate
for respondent No.3.

RITU BAHRI J. (Oral)

CM-18229-CII-2008

For the reasons mentioned in the application, the same is allowed and the delay of 28 days in filing the appeal stands condoned.

MAIN CASE

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Jalandhar (hereinafter referred to as 'the Tribunal') vide award dated 22.12.2007, on account of death of Manjit Lal in a motor vehicular accident, which took place on

13.05.2005.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 13.05.2005 at about 02:30 p.m. Manjit Lal (deceased) was coming from Jalandhar to his house on his bicycle. When he reached near the gate of village Kahlwan on the correct left Kacha Path of the side of the road, a bus bearing registration No.PB-02-N-9979, being driven by Sukhwinder Singh-respondent No.1, owned by M/s Dashmesh Bus Service (Regd.) Amritsar-respondent No.2, came from the side of Jalandhar, in a rash and negligent manner, without blowing the horn, struck against the bicycle of Manjit Lal (deceased), while taking the bus on the extreme left side. As a result of which, Manjit Lal (deceased) fell down and received multiple serious injuries on his person. He was got admitted in the Oxford Hospital, Jalandhar immediately, wherefrom he was referred to PGI, Chandigarh on 15.05.2005. He died on 18.05.2005 at PGI, Chandigarh. In this regard, on the statement of Sarwan Ram @ Rulda Ram, FIR No.47 dated 25.05.2005, under Sections 279, 427 and 304-A IPC, was got registered at Police Station Kartarpur, Punjab, in respect of the accident in question. Consequently, the claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident was caused on

account of rash and negligent driving by Sukhwinder Singh-respondent No.1 and has returned the finding on Issue No.1 in favour of the claimants-appellants. The claim petition was accepted by the tribunal and a sum of Rs.3,97,000/- was awarded as compensation on account of death of Manjit Lal along with future interest at the rate of 6% per annum from the date of filing of the petition till its realization.

The monthly income of the deceased was assessed at Rs.3,000/- per month, out of which 1/3rd amount was deducted towards personal expenses i.e. Rs.1000. The dependency of claimants, thus, came to Rs.2,000/- per month, which came to Rs.24,000/- per annum. Manjit Lal (deceased) was 28 years of age at the time of the accident/death and the multiplier of 16 was applied. Thus, the claimants were found entitled to compensation of Rs.3,84,000/-. In addition to it, further compensation of Rs.3,403/- and Rs.10,000/- was awarded towards medical bills and funeral expenses. Hence, the claimants were found entitled to total compensation of Rs.3,97,000/- (round off).

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. 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 *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 *Munna Lal Jain and another vs. Vipin Kumar Sharma and others*, 2015(3) Recent Apex Judgments 459 and *New India Assurance Company Limited vs Gopali and others*, (2012) 12 SCC 198. Accordingly, the compensation re-assessed as under:-

SR. NO.	HEADS	CALCULATIONS
(i)	Annual Income	Rs.36,000/-
(ii)	50% of (i) above to be added as future prospects (Age 28 years)	(Rs.36,000/-) + (Rs.18,000/-) = Rs.54,000/-
(iii)	Dependency of the claimant after deducting 1/10th of (ii) towards personal expenses of the deceased	(Rs.54,000/-) - (Rs.5,400) = Rs.48,600/-
(iv)	Compensation after multiplier of 17 is applied	(Rs.48,600/- x 17) =Rs.8,26,200/-
(v)	Loss of consortium	Rs.1,00,000/-
(vi)	Loss of estate	Rs.1,00,000/-
(vii)	Loss of love and affection to three minor children	Rs.3,00,000/- (Rs.1,00,000/- each)
(viii)	Loss of love and affection to father	Rs.50,000/-
(vii)	Funeral expenses	Rs.25,000/-
(viii)	TOTAL COMPENSATION AWARDED	Rs.14,01,200/-
(ix)	Enhanced amount of compensation	(Rs.14,01,200/-) – (Rs.3,97,000/-) =Rs.10,04,200/-

The enhanced amount of compensation of

Rs.10,04,200/- 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. However, the finding of the Tribunal with regard to right of recovery to Insurance Company and the manner of distribution of the compensation shall be maintained.

(RITU BAHRI)
JUDGE

22.09.2015

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