

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

**FAO No.2216 of 2009 (O&M)
Date of decision: 09.12.2015**

Smt. Sudesh and others

....Appellants

Versus

Wazir Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Jitender Dhanda, Advocate,
for the appellants.

Mr. Pankaj Mehta, Advocate,
for respondent No.2.

Mr. Abhishek Goyal, Advocate,
for Mr. Pardeep Goyal, Advocate,
for respondent No.4-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Hisar (hereinafter referred to as 'the Tribunal') vide award dated 03.12.2008, on account of death of Jai Pal in a motor vehicular accident which took place on 28.03.2006. Appellant No. 1 is widow, appellant Nos.2 and 3 are children and appellant No.4 is mother of deceased Jai Pal.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 28.03.2006, deceased-Jai Pal Singh, Manjeet and Sukhbir Singh were coming from village Khedar to Hisar on a motorcycle bearing registration No. HR-20-J-6767. Ram Phal and Raj Kumar were following them on another motorcycle. At about 11.00

P.M., when they reached near Balaji Mandir, Barwala Road, Hisar, a stray cattle came on the road. Jai Pal Singh tried to save himself by taking his motorcycle towards other side, but his motorcycle struck against a tractor (Sonalika) bearing registration No.HR-17-2758, which was parked in the middle of the road without any parking light or indicator. As a result of which accident, motorcycle fell down and its occupants received serious injuries. Sukhbir Singh died at the spot, whereas Jaipal Singh and Manjeet were taken to Metro Hospital, Hisar. Jaipal expired on 29.03.2006. With regard to the accident, FIR No.249 dated 29.03.2006, under Sections 283/304-A IPC was recorded at Police Station, Sadar, Hisar, against Wazir Singh-respondent No.1. Consequently, the claimants-appellants filed claim Petition No.27-MACT dated 04.04.2007 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 had been caused on account of contributory negligence on the part of tractor driver as well as motorcyclist and its pillion riders. Ultimately, the claim petition was accepted by the Tribunal. The income of the deceased was taken as Rs.3000/- per month. Out of this, amount of Rs.750/- was deducted towards personal expenses of deceased. The dependency of claimants, thus, came to Rs.2250/- per month i.e. Rs.27,000/- per annum. The deceased was 32 years of age at the time of accident/death and the multiplier of 16 was applied. Thus, the claimants were found entitled to compensation of Rs.4,32,000/-. In addition to it, Rs.5000/- were awarded towards funeral expenses & transportation and Rs.12,500/- on account of expenses incurred on treatment of deceased prior to his death. Hence, the claimants were found entitled to total

compensation of Rs.4,49,500/-. Since the accident took place due to contributory negligence of driver of offending vehicle and deceased, therefore, 50% of the total compensation was awarded in favour of the claimants, which came to be Rs.2,24,750/-. 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, *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.3000/- per month
(ii)	50% of (i) above to be added as future prospects	3000 + 1500 = Rs.4500/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	4500 – 1125 = Rs.3375/-
(iv)	Compensation after multiplier of 16 is applied	Rs.3375/- x 12 x 16 = Rs.6,48,000/-
(v)	Loss of consortium for the widow	Rs.1,00,000/-
(vi)	Loss of estate	Rs.1,00,000/-

(vii)	Loss of love and affection for the children	Rs.2,00,000/- (Rs.1,00,000/- each)
(viii)	Loss of love and affection for mother-appellant No.4.	Rs.50,000
(ix)	Funeral expenses	Rs.25,000/-
(x)	TOTAL COMPENSATION AWARDED	Rs.11,23,000/-
(xi)	Enhanced amount of compensation	Rs.11,23,000 – 2,24,750 = Rs.8,98,250/-

The enhanced amount of compensation of **Rs.8,98,250/-** 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

09.12.2015
ajp