

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

**FAO No.531 of 2009
Date of decision: 16.10.2015**

Kulwant Kumar and others

....Appellants

Versus

Mukhtiar Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ashok Kumar Khunger, Advocate
for the appellants.

Mr. Jaswinder Singh Grewal, Advocate
for respondent No.2.

None for respondent No.1.

Mr. Ravinder Arora, Advocate
for respondent No.3.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Ferozepur (hereinafter referred to as 'the Tribunal') vide award dated 04.10.2008, on account of death of Krishan Kumar in a motor vehicular accident.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 04.03.2006, at about 06:00 p.m., Krishan Kumar (deceased) along with his son and

brother Mani Ram was going to his house from his fields on a bicycle and when he reached near Vishkarma Mandir, a tractor bearing registration No.RJ-13-RA-0032, make Eicher being driven by respondent No.1-Mukhtiar Singh, rashly and negligently at a very high speed, came and hit the cycle of Krishan Kumar. As a result of said impact, Krishan Kumar fell down and died at the spot.

In this regard, FIR No.65 dated 04.03.2006, under Sections 279 and 304-A of the Indian Penal Code, 1860, in respect of the accident in question was got registered at Police Station City Abohar at the instance of Kulwant Kumar.

Consequently, the claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

Before the Tribunal, Kulwant Kumar (eye-witness) appeared as PW-1 and tendered his affidavit Ex.P-1, to prove the accident in question. He also proved the FIR Ex.P-3, which was got registered by him immediately after the impugned accident. The Tribunal has rightly returned the finding on Issue No.1 in favour of the claimants-appellants.

The claim petition was partly accepted by the Tribunal and a sum of Rs.2,25,000/- was awarded as compensation on account of death of Krishan Kumar along with future interest at the rate of 10% per annum from the date of filing of the petition

till its realization.

As per Salary Certificate, the monthly income of the deceased was Rs.11,000/- per month and his carry-home salary was Rs.7,573/- per month. Kulwant Kumar-PW-1, in his cross-examination has admitted that his mother is getting family pension of Rs.4,200/- per month and that amount of Rs.4,200/- has been deducted from the monthly contribution of the deceased towards his family. After deducting that amount, the amount comes to Rs.2,573/-. Rs.1,000/- amount was deducted towards personal expenses. The dependency of the claimants, thus, came to Rs.1,500/- per month, which came to Rs.18,000/- per annum. Krishan Kumar (deceased) was 50 years of age at the time of the accident/death and the multiplier of 10 was applied. Thus, the claimants were found entitled to compensation of Rs.1,80,000/-. In addition to it, further compensation of Rs.10,000/- was awarded towards cremation and last rites. Rs.20,000/- was awarded in respect of consortium and Rs.15,000/- was awarded on account of loss of love and affection. Hence, the claimants were found entitled to total compensation of Rs.2,25,000/-.

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. It stands established that the deceased has died as a result of the accident.

From the perusal of the record, it is revealed that the Tribunal has deducted the amount of Rs.3,115/- in respect of the GPF, GIS, etc. But, as per the judgment “*Vimal Kanwar and others Vs. Kishore Dan and others*” reported in 2013(2) R.C.R. (Civil) 945 passed by Hon'ble Supreme Court, the amount of Rs.3,115/- should be added towards gross salary. So, the income of the deceased comes to Rs.10,688/- per month (rounded off to Rs.10,700/- per month).

In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is required to be 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.

Accordingly, the compensation is re-assessed as under:-

SR. NO.	HEADS	CALCULATIONS
(i)	Annual Income (Rs.10,700- x 12)	Rs.1,28,400/-
(ii)	15% of (i) above to be added as future prospects (Age 50 years)	(Rs.1,28,400/-) + (Rs.19,260/-) = Rs.1,47,660/-

(iii)	Dependency of the claimant after deducting 1/3rd of (ii) towards personal expenses of the deceased	(Rs.1,47,660/-) - (Rs.49,220) = Rs.98,440/-
(iv)	Compensation after multiplier of 13 is applied	(Rs.98,440/- x 13) =Rs.12,79,720/-
(v)	Loss of consortium to widow	Rs.1,00,000/-
(vi)	Loss of estate	Rs.1,00,000/-
(vii)	Loss of love and affection for minor children	Rs.2,00,000/- (Rs.1,00,000/- each)
(viii)	Funeral expenses	Rs.25,000/-
(ix)	TOTAL COMPENSATION AWARDED	Rs.17,04,720/-
(x)	Enhanced amount of compensation	(Rs.17,04,720/-) – (Rs.2,25,000/-) =Rs.14,79,720/-

The enhanced amount of compensation of **Rs.14,79,720/-** 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

16.10.2015
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