

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

**FAO No.1101 of 2010 (O&M)
Date of decision: 04.12.2015**

Sonwati alias Rani and others

....Appellants

Versus

Ravi Bhushan and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Jaideep Verma, Advocate,
for the appellant.

Mr. D.P. Gupta, Advocate,
for respondent No.3-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, Rupnagar (hereinafter referred to as 'the Tribunal') vide award dated 16.09.2008, on account of death of Vicky in a motor vehicular accident which took place on 20.10.2004. Appellant Nos. 1 & 2 are parents, whereas appellant Nos.3 to 6 are brothers & sister of deceased Vicky.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 20.10.2004, at about 12.00 noon, deceased-Vicky along with other labourers was working on duty with regard to construction of Bela-Ropar road near village Budha Bheora. In the meantime, a Mohindra Jeep bearing registration No. PB-12-G-5120 being driven by Balbir Chand-respondent No.2 in a rash and negligent manner, came from Bela side and struck against Vicky after breaking the

barriers, which were set up to stop the traffic for the construction of road. As a result of this accident, Vicky received multiple and grievous injuries. He was taken to Civil Hospital, Ropar, where he succumbed to his injuries. 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 had been caused on account of rash and negligent driving of offending Mohindra Jeep bearing registration No.PB-12-G-5120 by Balbir Chand-respondent No.2 and thus, returned the finding on Issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of Sanjiv Kumar (PW-2), who was an eye witness of the accident. Ultimately, the claim petition was accepted by the Tribunal and a sum of Rs.2,64,000/- was awarded as compensation on account of death of Vicky. In the absence of any evidence with regard to the earnings of deceased, his income was taken as Rs.3000/- per month as casual labourer. Out of this, 1/3rd amount was deducted towards personal expenses of deceased. The dependency of claimants, thus, came to Rs.2000/- per month i.e. Rs.24,000/- per annum. As per postmortem report (Ex.P1), the deceased was 20 years of age at the time of accident/death, therefore, keeping in view the age of his parents, multiplier of 11 was applied. Thus, the claimant Nos.1 and 2 i.e. parents of deceased were found entitled to compensation of Rs.2,64,000/- along with interest @ 6% per annum from the date of filing of the petition till realization. Claimant Nos.3 to 6, who were brothers and sisters of deceased, were not held entitled to any compensation in respect of death of Vicky-deceased during the lifetime of

their parents. 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)	50% of (ii) above is deducted as personal expenses of the deceased (being bachelor)	4500 – 2250 = Rs.2250/-
(iv)	Compensation after multiplier of 18 is applied	Rs.2250/- x 12 x 18 = Rs.4,86,000/-
(v)	Loss of love and affection for the parents (appellant Nos.1 and 2)	Rs.1,00,000/- (Rs.50,000/- each)
(vi)	Funeral expenses	Rs.25,000/-
(xii)	TOTAL COMPENSATION AWARDED	Rs.6,11,000/-
(xiii)	Enhanced amount of compensation	Rs.6,11,000 – 2,64,000 = Rs.3,47,000/-

The enhanced amount of compensation of **Rs.3,47,000/-** 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

04.12.2015
ajp