

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

**FAO No.1934 of 2010 (O&M)
Date of decision: 21.12.2015**

Nasib Kaur and others

....Appellants

Versus

Balraj Singh and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Vikas Kumar, Advocate,
for the appellants.

Mr. S.K. Verma, Advocate,
for respondent No.1.

Rajbir Singh, Advocate,
for respondent No.2-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, Sirsa (hereinafter referred to as 'the Tribunal') vide award dated 04.11.2009, on account of death of Bhajan Singh in a motor vehicular accident which took place on 01.06.2008. Appellant No. 1 is widow, whereas appellant Nos.2 & 3 are children of deceased Bhajan Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 01.06.2008, at about 2.00 P.M., Jagjit Singh and his maternal uncle Gurcharan Singh were going on a motorcycle from Village Odhan towards their fields. In the way, they stopped near Grain Market and started talking with each other. After

sometime, deceased-Bhajan Singh (uncle of Jagjit Singh) came there on a cycle. As soon as he reached near Grain Market, a TATA ACE II bearing Temporary registration Mark No. HR-99-BR- (Temp) 4280 being driven by Balraj Singh-respondent No.1 in a rash and negligent manner, came from Odhan side and struck the same against the cycle of Bhajan Singh, as a result of which, Bhajan Singh received multiple injuries. His cycle was also damaged. After the accident, respondent No.1 could not control the offending vehicle and the same was turned turtle at some distance. Bhajan Singh was taken to PHC, Kalanwali by Jagjit Singh and Gurcharan Singh, from where, he was referred to General Hospital, Sirsa. Later on, Bhajan Singh succumbed to the injuries. With regard to the accident, FIR No.82 dated 01.06.2008, under Sections 279/337/304-A/427 IPC was registered at Police Station, Kalanwali against respondent No.1 at the instance of Jagjit Singh. 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 vehicle by respondent No.1 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 Jagjit Singh (PW-2), who was an eye witness of the accident and on whose statement the aforesaid FIR had been registered. Gurcharan Singh (PW-4), another eye witness of the accident, corroborated the statement of PW-2 in verbatim. While assessing compensation, the income of deceased was taken as Rs.18098/- per month being a Junior Engineer in Thermal Plant, Bathinda. Out of this,

1/3rd amount was deducted towards personal expenses of deceased. The dependency of claimants, thus, came to Rs.12065/- per month i.e. Rs.1,44,780/- per annum. The deceased was 50 years of age at the time of accident/death and the multiplier of 11 was applied. Thus, the claimants were found entitled to compensation of Rs.15,92,580/-. In addition to it, Rs.10,000/- were awarded towards funeral charges. Hence, the claimants were found entitled to total compensation of Rs.16,02,580/- along with interest @ 9% per annum from the date of filing of the petition till realization. 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.18,098/- per month

(ii)	30% of (i) above to be added as future prospects	18,098 + 5429 = Rs.23,527/-
(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased (five dependents)	23,527 – 7842 = Rs.15,685/-
(iv)	Compensation after multiplier of 13 is applied (Age 50 years)	Rs.15,685/- x 12 x 13 = Rs.24,46,860/-
(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)	Funeral expenses	Rs.25,000/-
(ix)	TOTAL COMPENSATION AWARDED	Rs.28,71,860/-
(x)	Enhanced amount of compensation	Rs.28,71,860 – 16,02,580 = Rs.12,69,280/-

The enhanced amount of compensation of **Rs.12,69,280/-** 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

21.12.2015
ajp