

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO No. 3062 of 2010

Date of decision : October 07, 2015

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Ishwanti Devi and others

.....Appellants

Versus

Balbir and another

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. K.S Malik, Advocate for the appellants.
Mr. Sanjeev Pabbi, Advocate for respondent no.2.

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1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

RITU BAHRI, J

C.M No. 14915-CII of 2010

For the reasons mentioned in the application, delay of 25 days in filing the present appeal is condoned.

C.M is allowed.

FAO No. 3062 of 2010

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Jind (hereinafter referred to as 'the Tribunal') vide award dated 6.11.2009 in **MACT Case No. 133 of 2008** on account of death of Ram Mehar in a vehicular accident, husband of claimant-appellant no.1 and father of claimants-appellants no.2 to 6.

FACTS NOT IN DISPUTE

The brief facts of the case are that on 14.12.2007, Ram Mehar along with Mehar Singh was travelling in a car bearing Regd. No. CH-03-X-4185 while proceedings towards Jind. When they

reached Lakshya Deep Hotel near Village Kiana, a truck trolly bearing Regd. No. PB-29C-9154 appeared there from front side which was being driven by respondent no.1 rashly and negligently. The truck trolly vehicle hit the car bearing Regd. No. CH-03-X-4185 and due to this accident, Mehar Singh and Ram Mehar sustained multiple and grievous injuries on their bodies. Mehar Singh died at the spot and Ram Mehar was taken to General Hospital, Jind, where he breathed his last. The accident took place in the presence of Attar Singh. Post mortem examination on the dead bodies of Mehar Singh and Ram Mehar was got conducted on the same day in the General Hospital, Jind. With regard to the accident, a criminal case under Sections 279 and 304-A IPC was registered under FIR No. 253 at Police Station, Sadar Jind on 14.10.2007.

COMPENSATION ASSESSED BY THE MACT

On account of death of Ram Mehar, claimants filed claim petition under Section 166 of the Motor Vehicles Act, 1988, which was accepted by the Tribunal and a sum of Rs. 5,60,000/- was awarded as compensation on account of death of Ram Mehar. The monthly income of the deceased was assessed at Rs. 4,000/- per month. An amount of Rs.1,000/- per month was deducted towards his personal expenses. In this way, annual dependency of the claimants was assessed as Rs.36,000 (Rs.3000/- x 12). As the age of Ram Mehar was assessed as 38 years, multiplier of 15 was applied. Thus, the claimants were found entitled to compensation of Rs.5,40,000/-. In addition to it, further compensation of Rs.10,000/-

towards loss of consortium, and Rs.10,000/- towards funeral expenses was awarded. Hence the claimants were found entitled to total compensation of **Rs. 5,60,000/-**.

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. The deceased 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 '***New India Assurance Co. Ltd. vs. Gopali and others (2012) 12 SCC 198, 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 re-assessed as under:-

<i>Sr. No.</i>	<i>HEADS</i>	<i>CALCULATION</i>
(I)	Income	Rs.4000/- per month
(ii)	50% of (i) to be added as future prospects (age of deceased was 38)	Rs.4000/-+Rs.2000/- =Rs.6000/- per month
(ii)	1/10 th of (ii) to be deducted as personal expenses of the deceased	(Rs.6000/-)-(Rs.600/-) =Rs.5400/- per month

<i>Sr. No.</i>	<i>HEADS</i>	<i>CALCULATION</i>
(iii)	Compensation after multiplier of 15 is applied	(Rs.5400 x12x 15) =Rs.9,72,000/-
(iv)	Loss of estate	Rs.1,00,000/-
(v)	Loss of consortium	Rs.1,00,000/-
(vi)	Loss of love and affection to children (Rs.1,00,000/- to each child)	Rs. 5,00,000/-
(vii)	Funeral expenses	Rs.25,000/-
	TOTAL COMPENSATION AWARDED	Rs.16,97,000/-
	Enhanced amount of compensation	(Rs.16,97,000/-)- (Rs.5,60,000/-)= Rs.11,37,000/-

The enhanced amount of compensation of **Rs.11,37,000/-** 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.

October 07, 2015
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(**RITU BAHRI**)
JUDGE