

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

* * * * *

FAO No. 3612 of 2010 (O&M)

Date of decision : August 24, 2015

* * * * *

Sunita Devi and others

.....Appellants

Versus

Nand Ram and others

.....Respondents

* * * * *

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

* * * * *

Present: Mr. Y.D Kaushik, Advocate for the appellants.

None for respondents no. 1 & 2.

Mr. Vinod Gupta, Advocate for respondent no.3.

* * * * *

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

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accidents Claims Tribunal, Fast Track Court, Faridabad (hereinafter referred to as 'the Tribunal') vide award dated 26.10.2009 on account of death of Balbir Singh, husband of appellant no.1.

FACTS NOT IN DISPUTE

On 10.4.2007 at about 4.30 a.m, one Karmvir Singh being driver of truck bearing registration no. HR-55A-6288 and the deceased Balbir Singh being driver of Truck bearing registration No. HR-37-A-4836 were coming to Bata Chowk, Faridabad for the purposes of loading the material, but due to not knowing the exact venue, they reached at M/s Good Year Chowk, Faridabad. Consequently, both Karmvir Singh and Balbir Singh stopped their respective trucks and asked about the Bata Chowk and they came to know that they had left the Bata Chowk behind. When they were coming towards their trucks and Balbir Singh was between both the trucks, the offending TATA-407 bearing registration No. UP-14X-9274 came from Delhi side at a very high speed, driven by respondent no.1 in a rash and negligent manner and hit the truck of Balbir Singh from behind resulting which the truck of Balbir Singh moved ahead and Balbir Singh was crushed between both the trucks. As such, the deceased received serious and grievous injuries on his person which proved fatal. He was taken to B.K Hospital, Faridabad but was declared brought dead. FIR bearing No. 142 dated 10.4.2007 under Sections 279/304-A was registered at Police Station, Sector-7, Faridabad.

COMPENSATION ASSESSED BY THE MACT

On account of death of Balbir Singh, claimants filed claim petition under Section 166 of Motor Vehicle Act, 1988 which was partly accepted by the Tribunal and a sum of Rs. 9,80,000/- was

awarded as compensation on account of death of Balbir Singh. The monthly income of the deceased was assessed at Rs.10,000/- per month and as such annual income of the deceased was presumed to be Rs.1,20,000/-. After deducting 1/3rd of income towards personal expenses, loss of income was assessed as Rs.80,000/- per annum. By applying the multiplier of 12, the total amount of compensation payable to the claimants came out to be Rs.80,000x12=Rs.9,60,000/-. An amount of Rs.10,000/- towards consortium, Rs.5000/- as compensation for loss of income and Rs.5000 towards funeral expenses were also awarded. Hence the claimants were awarded a compensation of Rs.9,80,000/- by the Tribunal.

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 '**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:-

<i>Sr. No.</i>	<i>HEADS</i>	<i>CALCULATION</i>
(I)	Income	Rs.10,000/- per month
(ii)	30% of (i) above to be added as future prospects	[Rs.10000/-+Rs.3000/-] Rs. 13000/- per month
(iii)	1/3 rd of (ii) deducted as personal expenses of the deceased	[Rs.13000/-]-[Rs.4333/-] =Rs. 8667/- per month
(iv)	Compensation after multiplier of 14 was applied	[Rs.8667/-x12x14] Rs.14,56,056/-
(v)	Loss of estate	Rs.1,00,000/-
(v)	Loss of love and affection for minor children (Rs.1,00,000 to each child)	Rs.2,00,000/-
(vi)	Loss of consortium	Rs.1,00,000/-
(vii)	Funeral expenses	Rs.25,000/-
	TOTAL COMPENSATION AWARDED	Rs.17,81,056/-
	Enhanced amount of compensation	(Rs.17,81,056/-)- (Rs.9,80,000/-) =Rs.8,01,056/-

The enhanced amount of compensation of **Rs.8,01,056 /-** 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.

August 24, 2015
ritu

(RITU BAHRI)
JUDGE