

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO No. 1400 of 2011

Date of decision : October 29, 2015

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Kalawati Devi

.....Appellant

Versus

Bijender Kumar and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. S.K Yadav, Advocate for the appellant.

Mr. Radhey Shyam Sharma, Advocate for respondent
no.3.

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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

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as 'the Tribunal') vide award dated 9.12.2010 in **MACT Case No. 205 of 2009** on account of death of Budh Ram in a vehicular accident, husband of claimant-appellant .

FACTS NOT IN DISPUTE

The brief facts of the case are that on 28.8.2009, Budh Ram after closing his shop was going to his village Bakhrija from

Nangal Chaudhary while driving his motor cycle bearing No. HR-35-B-8439. When he reached near the crossing of his village, respondent no.1 while driving his jeep bearing No. RJ-18C-2076 rashly negligently and in a very fast speed came and hit the motor cycle in question. As a result, Budh Ram along with his motor cycle fell down on the road and suffered multiple grievous injuries, on account of which he died at the spot. This accident was witnessed by several witnesses. Budh Ram was taken to General Hospital, Narnaul where post mortem was conducted. With regard to the accident, a criminal case under Sections 279 and 304-A IPC was registered bearing FIR No. 148 at Police Station, Nangal Chaudhary on 29.8.2009 against respondent no.1.

COMPENSATION ASSESSED BY THE MACT

On account of death of Budh Ram, claimants who were the widow and the minor son of Budh Ram, filed claim petition under Section 166 of the Motor Vehicles Act, 1988, which was accepted by the Tribunal and a sum of Rs. 3,72,000/- was awarded as compensation on account of death of Budh Ram. The monthly income of the deceased was assessed at Rs. 4,000/- per month. In this way, annual dependency of the claimants was assessed as Rs.48,000 (Rs.4000/- x 12). Since there were two claimants 1/3rd deduction for personal expenses was made from the income of the deceased. As such, the annual loss of income to the claimants was assessed as Rs.32,000/- per annum. As the age of Budh Ram was held to be 54 years at the time of his death, multiplier of 11 was

applied. Thus, the claimants were found entitled to compensation of Rs.3,52,,000/-. In addition to it, further compensation of Rs.5,000/- towards loss of estate, Rs.5,000/- towards funeral expenses and Rs.10,000/- to the claimant no.1 Kalawati on account of loss of consortium was awarded. Hence the claimants were found entitled to total compensation of **Rs. 3,72,000/-** by the Tribunal.

Feeling dissatisfied with the impugned award, the claimant-appellant 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)	15% of (i) to be added as future prospects (age of deceased was 54)	Rs.4000/-+Rs.600/- =Rs.4600/- per month
(ii)	1/3 rd of (ii) to be deducted as personal expenses of the deceased	(Rs.4600/-)-(Rs.1534/-) =Rs.3066/- per month
(iii)	Compensation after multiplier of 11 is applied	(Rs.3066 x12x 11) =Rs.404712/-
(iv)	Loss of estate	Rs.1,00,000/-
(v)	Loss of consortium	Rs.1,00,000/-
(vi)	Loss of love and affection to child	Rs. 1,00,000/-
(vii)	Funeral expenses	Rs.25,000/-
	TOTAL COMPENSATION AWARDED	Rs.7,29,712/-
	Enhanced amount of compensation	(Rs.7,29,712/-)- (Rs.3,72,000/-)= Rs.3,57,712/-

The enhanced amount of compensation of **Rs.3,57,712/-** 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 29, 2015
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(**RITU BAHRI**)
JUDGE