

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

FAO No.1620 of 2011 (O&M)

Date of decision : 01.09.2015

Smt. Darshana Devi & others

...Appellants

versus

Gopal Chand & others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Kamal Chaudhary, Advocate for the appellants.

Mr. V.K.Garg, Advocate for respondent No.3.

RITU BAHRI, J (Oral)

The appellants/claimants have come up in appeal against the award of the Motor Accident Claims Tribunal, Panchkula (hereinafter referred to as “the Tribunal”) dated 10.11.2010, whereby in a claim petition under Section 166 under the Motor Vehicles Act, the Tribunal has awarded Rs.4,61,561/- as compensation on account of death of the deceased Paramjit Singh.

Briefly stated, the facts of the case are that a claim petition was filed by the appellants/claimants with respect to death of Paramjit Singh. Claimants are widow, minor son and old aged parents of the deceased. On 17.01.2009, Paramjit Singh son of Joginder Singh (deceased) was coming from Chandi Mandir in Amravati Enclave on Kinetic Honda bearing registration No.HR-03-7485. At about 3.45 PM, when the deceased reached near bus stand Chandi Mandir, in the meantime, a tanker bearing registration No.HP-33-8164, which was

being driven by respondent No.1 rashly and negligently came from back side and struck against the deceased from backside, due to which, he fell down on the road and suffered severe and multiple injuries. He was immediately taken to General Hospital, Sector-6, Panchkula from where he was referred to PGI Chandigarh. The deceased Paramjit Singh remained admitted in PGI from 17.01.2009 to 26.01.2009 and was advised to remain as outdoor patient for his further treatment. During the treatment, the health of the deceased deteriorated and he was taken to General Hospital, Sector-6, Panchkula where he was declared dead on 08.02.2009. He died due to the injuries suffered by him in the accident which took place due to rash and negligent driving of the offending vehicle being driver by respondent No.1. An FIR in this regard has also been lodged.

On account of death of Paramjit Singh, claimants filed claim petition under Section 166 of the Motor Vehicles Act, 1988, which was accepted by the Tribunal and a sum of Rs.4,61,561/- was awarded as compensation to the claimants.

Feeling dissatisfied with the impugned award, the appellants/claimants have preferred the present appeal.

I have heard counsel for the parties and perused the case file.

Paramjit Singh deceased was working as a driver with Kumud Bala Katyal PW4 and was earning Rs.5,000/- per month. PW4 has appeared and stated that she has employed him as a driver, who was working in as a Lecturer in Chemistry in a school at Sector-12-A,

Panchkula. She had employed the deceased Paramjit Singh @ Rs.5,000/- per month plus TA/DA. The salary certificate was not acceptable by the Tribunal keeping in view that Paramjit Singh had been employed only for one year with Kumud Bala Katyal PW4. Since the employer had given affidavit and deposed with regard to the payment of the salary, this will not be a ground to reject that he was not drawing a salary @ Rs.5,000/- per month. The accident took place on 17.01.2009 and he died on 08.02.2009.

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 & ors. Vs. Maharaj Singh & ors., 2015 (2) RCR (Civil) 520, Sarla Verma & ors. Vs. Delhi Transport Corporation & anr., 2009 (3) RCR (Civil) Page 77, Rajesh & ors. Vs. Rajbir Singh & ors., 2013 (9) SCC 54 and Munna Lal Jain & anr. Vs. Vipin Kumar Sharma & ors., 2015 (3) Recent Apex Judgments 459. Accordingly, the compensation is reassessed as under:-

Sr. No.	Heads	Calculation
(i)	Income	Rs.5,000/- per month
(ii)	Annual Income	Rs.5,000/- x 12 = Rs.60,000/- per annum
(iii)	50% of (ii) added for future prospects (age of the deceased was 31 years)	(Rs.60,000/-) + (Rs.30,000/-) = Rs.90,000/-
(iv)	1/5 th of (iii) deducted towards personal expenses of the deceased	(Rs.90,000/-) – (Rs.18,000/-) = Rs.72,000/-
(v)	Compensation after multiplier of 16 is applied	(Rs.72,000/- x 16) = Rs.11,52,000/-
(vi)	Loss of estate	Rs.1,00,000/-

(vii)	Loss of consortium to the wife	Rs.1,00,000/-
(viii)	Loss of love and affection to the child	Rs.1,00,000/-
(ix)	Loss of love and affection to the parents	Rs.1,00,000/- (Rs.50,000/- each to mother and father)
(ix)	Funeral expenses	Rs.25,000/-
(x)	Total Compensation awarded	Rs.15,77,000/-
(xi)	Enhanced amount of compensation	(Rs.15,77,000/-) - (Rs.4,61,561/-) = Rs.11,15,439/-

The enhanced amount of compensation of **Rs.11,15,439/-** 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 realisation, in view of the judgment of Hon'ble Supreme Court in the case of **Kumari Kiran through her father Harinarayan Vs. Sajjan Singh & ors., 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.

01.09.2015

Vinay

(RITU BAHRI)
JUDGE