

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

FAO No.1769 of 2011 (O&M)

Date of decision: 14.09.2015

Smt. Beena and others

.....Appellants

Versus

Narender and another

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Rakesh Kumar Sharma, Advocate,
for the appellants.

Mr. Ravi Gakhar, Advocate,
for Mr. Jagdish Manchanda, Advocate,
for respondent No.1.

None for respondent No.2.

Ritu Bahri, J.

CM No.5459-CII of 2011

For the reasons mentioned in the application, same is allowed and
delay of 78 days in filing the appeal is condoned.

FAO No.1769 of 2011

This appeal has been filed by the claimants-appellants seeking
enhancement of compensation awarded by Motor Accident Claims Tribunal,
Faridabad (hereinafter referred to as 'the Tribunal') vide award dated
05.08.2010 on account of death of Dharambir in a vehicular accident.
Appellant No.1 is widow, appellant Nos.2 and 4 are minor daughters and
appellant No.3 is minor son of deceased Dharambir.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 29.10.2008, Dharmbir along
with his Anil had gone to bring oil on a bicycle. When they reached near

drain (Bhanakpur), a motorcycle bearing registration No.HR-29-G-6900, being driven by respondent No.1-Narender in a very rash and negligent manner, came from Bhanakpur side and struck against the cycle of Dharambir, as a result of which, Dharambir and his son-Anil fell down and received multiple serious injuries. Dharambir was shifted to B.K. Hospital, where the doctor declared him dead. The accident was witnessed by Bhudar son of Kishori Lal, on whose statement FIR No.510 dated 29.10.2008 was registered at Police Station Sector-55, Faridabad. The accident had occurred due to rash and negligent driving of aforesaid motorcycle by respondent No.1. 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, particularly the testimony of eye witness namely Bhudar (PW-1), the Tribunal came to a conclusion that the accident was caused on account of rash and negligent driving of motorcycle bearing registration No.HR-29-G-6900 by Narender-respondent No.1. This witness had informed the police about the accident. Thereafter, the police reached at the spot and all of them took the dead body of Dharambir to B.K. Hospital, Faridabad. Consequently, the FIR was registered against respondent No.1-Narender. Postmortem of the dead body was conducted by Dr. Ram Bhagat, Medical Officer, B.K. Hospital, Faridabad vide PMR (Ex.P2). Ultimately, the claim petition was accepted by the The tribunal and a sum of Rs.4,14,500/- was awarded as compensation on account of death of Dharambir along with interest at the rate of 6% per annum from the date of filing of the petition till its realization. The income of the deceased was assessed at Rs.3500/- per

month, out of which 1/4th amount was deducted towards personal expenses. The dependency of claimants, thus, came to Rs.2625/- per month approximately, which came to Rs.31,500/- per annum. Dharambir (deceased) was 45 years of age at the time of the accident/death and the multiplier of 13 was applied. Thus, the claimants were found entitled to compensation of Rs.4,09,500/-. In addition to it, further compensation of Rs.5000/- was awarded towards funeral expenses. Hence the claimants were found entitled to total compensation of Rs.4,14,500/-.

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, 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:-

SR. No.	HEADS	CALCULATION
(i)	Income	Rs.3500/- per month
(ii)	30% of (i) above to be added as future prospects (Age 45 years)	Rs.3500 + Rs.1050 = Rs.4550/-

SR. No.	HEADS	CALCULATION
(iii)	1/4 th of (ii) deducted as personal expenses of the deceased	Rs.4550 - 1137 = Rs.3413/-
(iv)	Compensation after multiplier of 14 is applied	Rs.3413 x 12 x14 = Rs.5,73,384/-
(v)	Loss of estate	Rs.1,00,000/-
(vi)	Loss of consortium for widow	Rs.1,00,000/-
(vii)	Loss of love and affection for minor children	Rs.3,00,000/- (Rs.1,00,000/- each)
(ix)	Funeral expenses	Rs.25,000/-
(x)	TOTAL COMPENSATION AWARDED	Rs.10,98,384/-
	Enhanced amount of compensation	Rs.10,98,384 – 4,14,500 = Rs.6,83,884/-

The enhanced amount of compensation of **Rs.6,83,884/-** 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.

14.09.2015
ajp

(RITU BAHRI)
JUDGE