

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

**FAO No.2269 of 2011 (O&M)
Date of decision: 29.09.2015**

Mormal and another

....Appellants

Versus

Vadan Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Jamshed Ahmed, Advocate
for the appellant.

Mr. R.N. Singal, Advocate
for respondent No.3.

RITU BAHRI J. (Oral)

This appeal has been filed by unfortunate parents of the deceased seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Nuh (hereinafter referred to as 'the Tribunal') vide award dated 01.12.2009, on account of death of Rahis in a motor vehicular accident, which took place on 23.03.2007.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 23.03.2007, Rahis (deceased) with his father Mormal, respondent No.4 on a motorcycle bearing registration No.HR-51-Y-2446 driven by him

with Mormal as pillion rider was going from village Kanganka to Sohna. When they reached near village Patheri bus stand, the offending dumper driven by respondent No.1, rashly, negligently and carelessly came from opposite side and hit in the ill fate motorcycle. As a result of which, the deceased was run over by the offending dumper and crushed to death on the spot. Respondent No.1 left behind the dumper and ran away from the spot. In this regard, FIR No.58 dated 23.03.2007, under Sections 279, 337 and 304-A IPC, was got registered at Police Station Tauru, in respect of the accident in question.

Consequently, the claimant filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident was caused on account of rash and negligent driving by Vadan Singh-respondent No.1 and has returned the finding on Issue No.1 in favour of the claimant-appellant. The claim petition was accepted by the tribunal and a sum of Rs.5,85,000/- was awarded as compensation on account of death of Rahis along with future interest at the rate of 6% per annum from the date of filing of the petition till its realization.

The monthly income of the deceased was assessed at Rs.3,600/- per month as he was an unskilled daily wager, out of

which 1/3rd amount was deducted towards personal expenses i.e. Rs.1,200/-. The dependency of claimant, thus, came to Rs.2,400/- per month, which came to Rs.28,800/- per annum. Rahis (deceased) was 22 years of age at the time of the accident/death and the multiplier of 17 was applied. Thus, the claimants were found entitled to compensation of Rs.4,89,600/-. In addition to it, further compensation of Rs.25,000/- and Rs.10,000/- was awarded towards loss of consortium and transportation and last rites. Hence, the claimants were found entitled to total compensation of Rs.5,24,600/-.

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

REASSESSED COMPENSATION

Learned counsel for the appellant has produced the corrected copy of the award passed by the Tribunal. The same is taken on record as 'Annexure A-1'.

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 is re-assessed as under:-

SR. NO.	HEADS	CALCULATIONS
(i)	Annual Income (Rs.3,600/- x 12)	Rs.43,200/-
(ii)	50% of (i) above to be added as future prospects (Age 22 years)	(Rs. 43,200/-) + (Rs.21,600/-) = Rs.64,800/-
(iii)	Dependency of the claimant after deducting 1/3rd of (ii) towards personal expenses of the deceased	(Rs.64,800/-) - (Rs.21,600/-) = Rs.43,200/-
(iv)	Compensation after multiplier of 18 is applied	(Rs.43,200/- x 18) =Rs.7,77,600/-
(vi)	Loss of estate	Rs.1,00,000/-
(vii)	Loss of love and affection to parents of deceased	Rs.1,00,000/- (Rs.50,000/- each)
(vii)	Funeral expenses	Rs.15,000/-
(viii)	TOTAL COMPENSATION AWARDED	Rs.9,92,600/-
(ix)	Enhanced amount of compensation	(Rs. 9,92,600/-) – (Rs.5,24,600/-) =Rs.4,68,000/-

The enhanced amount of compensation of **Rs.4,68,000/-** 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.

(RITU BAHRI)
JUDGE

29.09.2015
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