

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO No. 3710 of 2011 (O&M)
Date of decision : August 14, 2015

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Para Devi and others

.....Appellants

Versus

Subhash and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Sandeep Kumar Yadav, Advocate for the appellants.

Mr. Mukesh Yadav, Advocate for respondents no. 1 & 2.

Ms. Richa Mittal, Advocate for
Mr. R.C Gupta, 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

C.M No. 13658-CII of 2011

For the reasons mentioned in the application delay of 266
days in filing the present appeal is condoned.

C.M is allowed.

FAO No. 3710 of 2011

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Narnaul (for short 'the Tribunal') vide award dated 1.5.2010 on account of death of Jagmal husband of appellant no.1.

FACTS NOT IN DISPUTE

On 8.6.2009, Jagmal was going on foot towards Mohindergarh and at about 5 p.m., when he reached near Cement Factory, a tractor bearing No. HR-34-C-4570 being driven by respondent no.1 in rash and negligent manner and in a very high speed struck against Jagmal. As a result of this impact Jagmal fell down and sustained serious injuries. He was shifted to civil hospital, Mohindergarh where he succumbed to his injuries. FIR Ex. PW2/B under Sections 279 and 304-A IPC was registered against Subhash respondent no.1 and challan was presented against him. Copy of report under Section 173 Cr.P.C and charge sheet are Ex. PW1/A and EX.PW1/B respectively. Driving licence of Subhash is Ex. PW1/C copy of RC is Ex. PW1/D and copy of insurance cover note is Ex. PW1/E. The above said evidence was considered sufficient to come to a conclusion that the vehicle was being driven by respondent no.1 and the vehicle was duly insured. There is no dispute with regard to the cause of the accident as it was being driven by a driver and there was an insurance cover.

COMPENSATION ASSESSED BY THE MACT

On account of death of Jagmal, claimants filed claim petition which was accepted by the learned Tribunal and a sum of Rs. 3,22,000/- was awarded as compensation on account of death of Jagmal. The monthly income of the deceased was assessed at Rs. 3,000/- per month. 1/3rd amount was deducted towards personal expenses and as such monthly dependency of the claimant came out to Rs. 2,000/- and annual dependency came out to be $2000 \times 12 = 24,000/-$. The age of the deceased was depicted as 50 years and hence a multiplier of 13 was applied. Thus, the total amount of compensation payable to the claimants came out to be $Rs. 24000 \times 13 = Rs. 3,12,000/-$. An amount of Rs. 5,000/- towards loss of consortium, an amount of Rs. 5000/- towards funeral expenses was also awarded.

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 filed.

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 '**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.3000/- per month
(ii)	30% of (i) above to be added as future prospects	[Rs.3000/-+Rs.900/-] Rs. 3900/- per month
(iii)	¼ of (ii) deducted personal expenses of the deceased	[Rs.3900/-]- [Rs.975/-] =Rs.2925/- per month
(iv)	Compensation after multiplier of 13 was applied	[Rs.2925/-x12x13] Rs.4,56,300/-
(v)	Loss of love and affection for minor children (Rs.1,00,000/- each for 3 children)	Rs.3,00,000/-
(vi)	Loss of consortium	Rs.1,00,000/-
(vii)	Funeral expenses	Rs.25,000/-
	TOTAL COMPENSATION AWARDED	Rs.8,81,300/-
	Enhanced amount of compensation	(Rs.8,81,300/-)- (Rs.3,22,000/-) =Rs.5,59,300/-

The enhanced amount of compensation of **Rs.5,59,300/-** 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 14, 2015
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(**RITU BAHRI**)
JUDGE