

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

F.A.O No. 3964 of 2011 (O&M)

Date of decision:- 04.11.2015

Reshma and others

...Appellants

Versus

Radhey Shyam and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Sunny Deep Joneja, Advocate for
Mr. J.K. Goel, Advocate
for the appellants.

Mr. V.K. Garg, Advocate
for respondent No. 3-Insurance Company

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RITU BAHRI J.

1. The present appeal has been preferred by the claimants-appellants (for short 'the appellants'), seeking enhancement of the amount of compensation awarded by the learned Motor Accident Claims Tribunal, Bhiwani (for short, 'the Tribunal') to the tune of Rs. 4,41,500/-, vide impugned award dated 10.12.2010.

FACTS NOT IN DISPUTE

2. On 03.10.2009 Krishan (since deceased) who was waiting for the pillion rider Vinod Kumar met with an accident, when a maruti

swift car bearing temporary No. HR-99-DE-2733 later on bearing registration No HR-16-H-3730 came from behind in a rash and negligent manner and hit the motorcycle. Due to impact, Kishan fell down on the left side of the road and received multiple and grievous injuries. The accident was witnessed by Vinod Kumar. The driver of the car fled away from the spot. The deceased died on the spot. On the statement of Vinod Kumar, F.I.R No. 317 dated 03.10.2009 u/s 279/304-A IPC has been registered in this regard.

3. The learned counsel for the appellants contends that the Tribunal has erred in awarding the compensation, in view of the judgment 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**', '**Asha Verman and others vs. Maharaj Singh and others, 2015(2) RCR (Civil) 520** and '**Kalpanaraj and others v. Tamil Nadu State Transport Corporation, 2015(2) SCC (Civil) 193**'.

4. The learned Tribunal has wrongly taken the income of the deceased at Rs.6000/- per month, as it has been proved on record that the deceased was a shop keeper dealing in the business of seeds and

fertilizer and he was sole proprietor of M/s Kissan Agriculture Store Tosham. This fact was proved by P.W.1. The deceased was the sole bread earner of his family. The multiplier of 9 has also been wrongly applied and nothing has been awarded towards future prospect.

5. On the other hand, the learned counsel for the respondent-Insurance Company have vehemently opposed the present appeal.

5. I have heard learned counsel for the parties and gone through the record.

6. The learned Tribunal while granting the compensation to the appellants had assessed the income of the deceased at Rs.6000/- per month and cut of 1/3 was applied and thereafter multiplier of 9 was applied and Rs.2,000/- was awarded on account of expenditure on funeral rites and Rs.2500/-towards loss of estate and Rs.5000 towards loss of consortium. The total compensation of Rs.4,41,500/- was given to the appellants.

6. In the instant case, the deceased was 46 years of age at the time of the accident. The deceased was shop keeper and sole proprietor of M/s Kissan Agriculture Store Tosham. The accident in question is not in dispute and the offending vehicle was fully insured with the Insurance Company. The salary of the deceased can be taken

at Rs.10,000/- per month, keeping in view the fact that he was also earning from his business other than shop.

7. In view of the above mentioned judgments, the compensation is re-assessed as under:-

Sr. No.	Heads	Calculations
(i)	Salary	Rs.10000/- per month
(ii)	30% of (i) above to be added as future prospects=	Rs.10000+Rs.3000=Rs.13,000/- per month
(iii)	1/4 of (ii) deducted as personal expenses of the deceased=	Rs.13000-Rs.3250=Rs.9750/- per month
(iv)	Compensation after multiplier of 12 is applied	Rs.9750 X 12X 13= Rs.15,21,000/-
(v)	Loss of consortium	Rs.1,00,000/-
(v)	Loss of estate	Rs.1,00,000/-
(vi)	For love and affection to two children	Rs.2,00,000/- (Rs. 1 lac each to two children)
(vii)	For love and affection to parents	Rs.1,00,000/- (Rs.50,000/-to each parent)
(vii)	Funeral charges	Rs.25,000/-
	Total Compensation awarded	Rs.20,46,000/-
	Enhanced amount of compensation	Rs.20,46,000-Rs.4,41,500=Rs.16,04,500/- (Rounded of to Rs.16,04,000/-)

8. The enhanced amount of compensation of Rs.16,04,000/- shall be payable within a period of forty five days 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 a 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.

9. Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

November 04, 2015

G Arora

(***RITU BAHRI***)
JUDGE¹