

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

FAO No.4171 of 2011 (O&M)

Date of decision : 03.09.2015

Raj Devi & others		...Appellants
	versus	
Pawan & others		...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. B.K.Bagri, Advocate for the appellants.

Ms. Vandna Malhotra, Advocate for respondent No.3.

RITU BAHRI, J (Oral)

The appellants/claimants have come up in appeal against the award of the Motor Accidents Claims Tribunal, Rewari (hereinafter referred to as “the Tribunal”) dated 13.12.2010, whereby they have been awarded a compensation on account of death of Kishor, who died in a road accident which took place on 28.04.2009.

Facts not in dispute are that on 28.04.2009, at about 9.00 a.m. Ajit Singh son of Amrit Singh resident of village Bohka accompanied by Kishor son of Attar Singh resident of village Khudana, District Mohindergarh and Naresh Kumar son of Dalip Singh, were going from village Mandola to village Bohka by means of motorcycle bearing registration No.HR-26AB-7936. While Ajit Singh was driving, the other two were pillion riders. When they were on Mandola-Bohka road and had reached near the house of Rajender Singh son of Ram Kumar of village Mandola, a school bus bearing registration No.HR-47-9835 being driver rashly, negligently and in a high speed and without observing traffic rules came from their

opposite direction i.e. from the side of village Bohka and directly hit into their motorcycle. Resultantly, all three of them fell down on the road. Ajit Singh came under the offending bus alongwith motorcycle and sustained multiple serious and grievous injuries and died on the spot. The other two were also seriously injured. They were taken to General Hospital, Rewari whereby they were medicaolegally examined and were given first aid. The condition of Kishor being serious he was referred to PGIMS, Rohtak, but he succumbed to his injuries on the way. FIR No.79 dated 18.04.2009 under Sections 279/337/304A IPC, was registered and a charge sheet had been served on Pawan Kumar (respondent No.1) on 05.06.2009. Photocopy of the FIR is at Ex.P1, photocopy copy of charge sheet is at Ex.P2.

The Tribunal, after going through the evidence on record, accepted the claim petition and held that the accident took place due to the rash and negligent driving of respondent No.1. Smt. Raj Devi @ Rajbala, widow of the deceased Kishor appeared as PW2 and besides proving the postmortem report of her husband Ex.P5 deposed that her husband was employed with M/s Alfa Enterprises situated in village Sallewal, Post Office Rajpura (Nalagarh), District Solan (H.P.) and was earning Rs.5,000/- per month. PW5 Bhim Singh, HR (Aministration), Alfa Enterprises, Old Housing Board, Rewari, corroborated the statement of PW2 Raj Devi and produced the relevant record and deposed that Kishor was working as Supervisor with his company and was earning Rs.5,000/- per month. Copy of wage register and copy of attendance register has been proved as Ex.P8 and

Ex.P9 respectively. As per documents tendered Kishor was appointed in the company just five days prior to the accident on temporary basis. PW5 admitted the salary of the deceased i.e. Rs.962/- for five days has not been claimed by anyone till date. Attendance of the deceased was used to be marked by the contractor, meaning thereby that the deceased was simply a daily wager working under a contractor. In view of the said evidence, the income of the deceased was assessed as Rs.4,200/- per month. There being three dependants of the deceased, the deduction towards personal/individual expenses of the deceased would be $\frac{1}{3}$ rd of his income. Accordingly, deducting $\frac{1}{3}$ rd i.e. Rs.1400/- out of Rs.4200/-, the amount comes to Rs.2,800/- per month or Rs.33,600/- per annum, which the deceased was assumed to be contributing towards maintenance of his family. Multiplier of 15 has been applied. Thus, the compensation has been assessed as Rs.5,04,000/- (Rs.33,600/- x 15). Rs.5,000/- on account of expenditure on funeral and last rites of the deceased were also awarded and Rs.10,000/- towards loss of consortium has also been awarded. Thus, a total compensation of Rs.5,19,000/- was allowed 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.

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.4,200/- per month
(ii)	Annual Income	Rs.4,200/- x 12 = Rs.50,400/- per annum
(iii)	50% of (ii) added for future prospects	(Rs.50,400/-) + (Rs.25,200/-) = Rs.75,600/-
(iv)	1/3 rd of (iii) deducted towards personal expenses of the deceased	(Rs.75,600/-) – (Rs.25,200/-) = Rs.50,400/-
(v)	Compensation after multiplier of 15 is applied	(Rs.50,400/- x 15) = Rs.7,56,000/-
(vi)	Loss of estate	Rs.1,00,000/-
(vii)	Loss of love and affection to the children	Rs.2,00,000/- (Rs.1,00,000/- each to the children)
(viii)	Loss of consortium	Rs.1,00,000/-
(viii)	Funeral expenses	Rs.25,000/-
(ix)	Total Compensation awarded	Rs.11,81,000/-
(x)	Enhanced amount of compensation	(Rs.11,81,000/-) - (Rs.5,19,000/-) = Rs.6,62,000/-

The enhanced amount of compensation of **Rs.6,62,000/-** 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 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.

03.09.2015
Vinay

(RITU BAHRI)
JUDGE