

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

FAO No. 5026 of 2011

Date of decision:- 08.09.2015

Rajesh and others

...Appellants

Versus

Dalbir and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Akashdeep Singh, Advocate
for the appellants

Mr. A.S. Sidhu, 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. (Oral)

1. The present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 19.04.2011 passed by the learned Motor Accident Claims Tribunal, Rohtak (for short, 'the Tribunal') to the tune of Rs.11,82,000/-.

FACTS NOT IN DISPUTE

2. On 08.05.2008, Jeet Singh (since deceased) had gone to village Gangana Distt. Sonapat to attend Barat of Pardeep and after attending the barat, he was returning to Rohtak along with Naresh, Ravinder, Raja and Sasttu, in a car bearing registration NO. HR-14-C 0250, which was being driven by him and when they reached near village Jassia, a truck bearing

registration No. HR-46-A-0129 being driven by its driver rashly and negligently, came from Rohtak side and struck against the car of Jeet Singh, due to which he and other occupants of the car received multiple and grievous injuries. The injured along with Jeet Singh were taken to PGIMS, Rohtak where Jeet Singh succumbed to his injuries sustained by him in the accident. F.I.R No. 129 dated 09.05.2008 under Section 279/337/304-A IPC was registered in this regard. Rajpal @ Raja, who was also travelling in the same car also suffered injuries and remained admitted in PGIMS Rohtak from 08.05.2008 to 09.05.2008 and has incurred an amount of Rs.1,50,000/- on his treatment and become disabled person.

3. The learned counsel for the claimants-appellants contends that the compensation awarded by the learned Tribunal is on the lower side in the case of Jeet Singh (since deceased), as the cut of 1/3rd has been imposed instead of 1/4th and further the multiplier of 10 has been given only, thus the compensation deserves to be enhanced, in view of the judgment "***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. Learned counsel for the appellants further contends that the

income of the deceased was Rs.14,452/- per months as per salary certificate (Ex PW2/A) and the gross salary of the deceased was Rs.15,592/- but the learned Tribunal has not considered contribution towards P.F and it should be added in the salary of the deceased while calculating the compensation, in view of the judgment of Hon'ble the Supreme Court in a case of **National Insurance Co. Ltd vs. Indira Srivastava and others, 2008(1) RCR (Civil) 359.**

5. On the other hand, the learned counsel for the respondent-Insurance Company have vehemently opposed the present appeal.
6. I have heard learned counsel for the parties and perused the record.

COMPENSATION ASSESSED BY MACT

Sr. No.	Heads	Calculations
(i)	Salary	Rs.14452/- per month
(ii)	1/3 rd of (i) deducted as personal expenses of the deceased=	Rs.9600 per month (14452-4817)
(iii)	Annual Dependency	Rs.9600X12=Rs.1,15,200/-
(iv)	Compensation after multiplier of 10 is applied	Rs.1,15,200X10= Rs.11,52,000/-
(v)	Loss of love and affection	Rs. 20,000/-
(v)	Funeral charges	Rs.10,000/-
(viii)	Total Compensation awarded	11,82,000/-

RE-ASSESSED COMPENSATION

7. It is not in dispute that the accident had taken place and the offending vehicle was fully insured with the Insurance company. Ex.P16 is the photocopy of the driving licence possessed by the driver at the time of

the accident. Its genuineness is also not under challenge.

8. Keeping in view the **National Insurance's case (supra)**, the compensation has to be re-assessed as follows by including the P.F in the salary of the deceased and after deducing the income tax:-

Sr. No.	Heads	Calculations
(i)	Salary	Rs.15452/- per month
(ii)	30% of (i) above to be added as future prospects=	Rs.15452+Rs.4635=Rs.20087 per month
(iii)	Annual Income	Rs.20087X12=Rs.2,41,044/-
(iv)	Deduction of Income Tax as per tax slab	Rs.2,41,044-Rs.22,200=Rs.2,18,844/-
(v)	1/4 th of (ii) deducted as personal expenses of the deceased=	Rs.218844-Rs.54711=Rs.1,64,133/-
(vi)	Compensation after multiplier of 15 is applied	Rs.164133 X 15= Rs.24,61,995/-
(vii)	Loss of estate	Rs.1,00,000/-
(viii)	Loss of consortium	Rs.1,00,000/-
(ix)	Loss of love and affection to daughter	Rs.1,00,000/-
(x)	Loss of love and affection to parents	Rs.50,000/- each
(xi)	Funeral charges	Rs.25,000/-
(xii)	Total Compensation awarded	Rs.28,86,995
	Enhanced amount of compensation	28,86,995-11,82,000=Rs.17,04,995/-

9. Resultantly, the enhanced amount of compensation of Rs.17,04,995 /- 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.

10. With the aforesaid modification in the impugned award, the appeal is allowed to the above extent.

September 08, 2015
G Arora

(***RITU BAHRI***)
JUDGE