

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO No. 960 of 2010

Date of decision : November 18, 2015

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Asha Rani and others

.....Appellants

Versus

Naresh Kumar and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Sarvjit Singh Khurana, Advocate for the appellants.

Mr. R.K Bahamboo, Advocate for respondent no.4.

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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

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Rewari (hereinafter referred to as 'the Tribunal') vide award dated 23.04.2009 in **MACT Case No. 203 of 2007** on account of death of Jagbir Singh in a vehicular accident, husband of claimant-appellant no.1 and father of claimants-appellants no.2 to 4.

FACTS NOT IN DISPUTE

The brief facts of the case are that on 29.9.2006 at about

7:25 a.m.m Jagbir Singh deceased went to General Hospital, Rewari with his brother-in-law named Ashok Kumar on a motorcycle bearing registration No. HR-36G-6112. When they were near Leo Chowk, Rewari, a tractor with trolley attached thereto, bearing registration No. HR-43-6965 came from their backside and in the process of overtaking the motorcycle, hit the same. The tractor was driven by Naresh Kumar-respondent no.1 at a very high speed and in a rash and negligent manner. Jagbir Singh and his brother-in-law fell down on the road. Jagbir Singh suffered fatal injuries and he died at the spot. The accident was reported to Police Station City Rewari where a case was registered by way of FIR No. 252 dated 29.9.2006 for an offence punishable under Sections 279, 304-A IPC.

COMPENSATION ASSESSED BY THE MACT

On account of death of Jagbir Singh, claimants filed claim petition under Section 166 of the Motor Vehicles Act, 1988, which was accepted by the Tribunal. The Tribunal gave a finding that the accident was caused due to the rash and negligent driving of respondent no.1 and a sum of Rs. 7,20,000/- was awarded as compensation on account of death of Jagbir Singh. The monthly income of the deceased was taken to be Rs. 5,000/- per month. An amount of Rs.1,250/- per month (being $\frac{1}{4}$ of monthly income) was deducted towards his personal expenses. In this way, annual dependency of the claimants was assessed as Rs.45,000 (Rs.3750/- x 12). As the age of Jagbir Singh was assessed as 38 years, multiplier of 16 was applied. Thus, the claimants were found entitled

to compensation of **Rs.7,20,000/-** along with **Rs.9500/-** as general damages and thus the total compensation payable worked out to be **Rs.7,29,500/-**.

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 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 '***New India Assurance Co. Ltd. vs. Gopali and others (2012) 12 SCC 198, 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:-

<i>Sr. No.</i>	<i>HEADS</i>	<i>CALCULATION</i>
(I)	Income	Rs.5000/- per month
(ii)	50% of (i) to be added as future prospects (age of deceased was 38)	Rs.2500/- per month Rs.5000/-+Rs.2500/- =Rs.7500/- per month

<i>Sr. No.</i>	<i>HEADS</i>	<i>CALCULATION</i>
(iii)	1/4 th of (ii) to be deducted as personal expenses of the deceased	(Rs.7500/-)-(Rs.1875/-) =Rs. 5625/- per month
(iv)	Compensation after multiplier of 15 is applied	(Rs.5625x12x15) =Rs.10,12,500/-
(v)	Loss of estate	Rs.1,00,000/-
(vi)	Loss of consortium	Rs. 1,00,000/-
(vii)	Loss of love and affection to children (Rs.1,00,000/- to each child)	Rs.3,00,000 /-
(viii)	Funeral expenses	Rs.25,000 /-
	TOTAL COMPENSATION AWARDED	Rs. 15,37,500/-
	Enhanced amount of compensation	(Rs.15,37,500/-)- (Rs.7,29,500/-)= Rs.8,08,000/-

The enhanced amount of compensation of **Rs.8,08,000 /-** 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.

November 18, 2015
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(**RITU BAHRI**)
JUDGE