

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1712 of 2012

Date of Decision: 04.09.2015

Smt.Santosh Kumari and another

.....Appellants

Vs.

Hira Masih and Others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Parveen Kumar Rohilla, Advocate for the appellants.

Mr.Bhim Singh, Advocate for respondent No.1.

None for respondent Nos.2 and 3.

RITU BAHRI, J. (ORAL)

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal') vide award dated 24.11.2011 on account of death of Sh.Bansi Lal in a vehicular accident, husband of claimant-appellant No.1 and father of respondent No.2.

FACTS NOT IN DISPUTE

On 05.06.2009 at about 10 p.m, Bansi Lal (since deceased) was driving his car bearing registration No.HR 06T 1788 and was proceeding towards Kurukshetra from Karnal for performing his duty. When Bansi Lal reached in the area of Police Station, Butana, a Gas Tanker bearing registration No.HR 65 0662 was going ahead of his car. The deceased was keeping proper distance from the aforesaid Gas Tanker. The Tanker driver had to apply brakes suddenly as some one had come in front of his vehicle. The deceased also applied brakes to his car. But since the tanker was being driven in a rash and negligent manner, the car struck into

the injuries sustained in the accident, Bansi Lal died at the spot. FIR No.218 dated 06.06.2009 under Sections 279 and 304A IPC was lodged in Police Station, Butana, Karnal against respondent No.1.

COMPENSATION ASSESSED BY THE MACT

Appellant No.1-widow of the deceased had admitted that she was getting pension which was equivalent to the last pay drawn by her deceased husband. She admitted that she is getting Rs.13,943/- per month, which was also evident from the salary certificate Ex.P1. She also stated that she received an amount of Rs.5,00,000/- in cash from the police department. Thus, learned Tribunal has not granted any compensation on account of loss of income as the widow of the deceased was getting the pension equivalent to the last drawn salary. Therefore, keeping in view the facts and circumstances of the case, the claimants were awarded an amount of Rs.50,000/- on account of loss of love and affection. The claimants were also awarded an amount of Rs.5,000/- as funeral expenses and appellant No.1 was awarded an amount of Rs.5,000/- towards loss of consortium. The claimants were thus awarded an amount of Rs.60,000/- as compensation by the learned Tribunal alongwith interest @ 7.5% per annum from the date of filing the claim petition till its realization.

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 '*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>
1.	Income	Rs.13942/- per month
2.	50% of (i) added for future prospect	[(Rs.13942/-) + (Rs.6971/-) round)=Rs.20,913/-
3	1/4 of (ii) deducted personal expenses of the deceased. (being dependents in number four)	[(Rs.20913/-)- (Rs.5228/-)] =Rs.15685/-
4.	Multiplier 17	Rs.15685/- X 12 X 17=Rs.31,99,740/-
5.	Loss of estate	Rs.1,00,000/-
6.	Loss of consortium	Rs.1,00,000/-
7.	Loss of love and affection of parents (Rs.50,000/- each)	Rs.1,00,000/-
8	Loss of love and affection (minor child)	Rs.1,00,000/-
9	Funeral Expenses	Rs.25,000/-
	TOTAL COMPENSATION AWARDED	Rs.36,24,740/-
	Enhanced amount of compensation	(Rs.36,24,740/-)- (Rs.60,000/-) =Rs.35,64,740/-

The enhanced amount of compensation of Rs.35,64,740/- 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.

(RITU BAHRI)
JUDGE

04.09.2015
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