

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

FAO No.1753 of 2012 (O&M)

Date of decision: 08.09.2015

Sunita and others

.....Appellants

Versus

Satyawan and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Jainainder Saini, Advocate,
for the appellants.

Mr. Diva Sarup, Advocate,
for respondent No.2.

Mr. Amrinder Singh Sidhu, Advocate,
for respondent No3.

Ritu Bahri, J.

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Hisar (hereinafter referred to as 'the Tribunal') vide award dated 18.10.2011 on account of death of Surender in a vehicular accident. Appellant No.1 is widow, appellant Nos.2 is minor daughter, appellant Nos.3 & 4 are minor sons and appellant Nos.5 & 6 are parents of deceased Surender.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 09.06.2010, Inder Singh son of Raja Ram resident of village Adampur was standing near Power House of village Adampur on Agroha-Bhadra road. In the meantime, Surender (deceased) came there on a motorcycle bearing registration No. HR-20-P-8939. When they were talking with each other on a kacha portion away from the road, a car bearing registration No.RJ-31-CA-2374, being driven

by respondent No.1-Satyawan in a very rash and negligent manner, came from Agroha side and struck against Surender Singh and his motorcycle, as a result of which, Surender received injuries and died on the spot. However, he was shifted to General Hospital, Hisar, where the doctor declared him dead. The said accident had occurred due to rash and negligent driving by respondent No.1, which was witnessed by Ram Sarup, Narinder Singh and some other persons of village Adampur. In this regard, FIR No.176 dated 09.06.2010, under Sections 279/337/304-A was registered at Police Station, Adampur. Consequently, the claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

Before the Tribunal, Ajay Kumar, Ahlmad in the Court of JMJC, Hisar (PW-1), had brought the file titled as 'State vs. Satyawan' relating to FIR No.176 dated 09.06.2010, under Sections 279, 337, 304-A IPC, registered at Police Station, Adampur. As per deposition of the said witness, charges against Satyawan-respondent No.1 were framed on 10.01.2011. Copies of FIR and Postmortem report were proved as Ex.P1 and Ex.P2. As per RC of the offending. Ultimately, on the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident was caused on account of rash and negligent driving of car bearing registration No.RJ-31-CA-2374 by Satyawan-respondent No.1. The claim petition was accepted by the The tribunal and a sum of Rs.5,56,800/- was awarded as compensation on account of death of Surender along with future interest at the rate of 9% per annum from the date of filing of the petition till its realization. The monthly income of the deceased was assessed at Rs.4000/- per month, out of which 1/3rd amount was deducted towards personal

expenses. The dependency of claimants, thus, came to Rs.2700/- per month approximately, which came to Rs.32,400/- per annum. Surender (deceased) was 29 years of age at the time of the accident/death and the multiplier of 17 was applied. Thus, the claimants were found entitled to compensation of Rs.5,50,800/-. In addition to it, further compensation of Rs.6000/- was awarded towards funeral expenses. Hence the claimants were found entitled to total compensation of Rs.5,56,800/-.

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. It stands established that the deceased has 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 re-assessed as under:-

SR. No.	HEADS	CALCULATION
(i)	Income	Rs.4000/- per month
(ii)	50% of (i) above to be added as future prospects (Age 29 years)	Rs.4000 + Rs.2000 = Rs.6000/-
(iii)	1/10 th of (ii) deducted as personal expenses of the deceased	Rs.6000 - 600 = Rs.5400/-

SR. No.	HEADS	CALCULATION
(iv)	Compensation after multiplier of 17 is applied	Rs.5400 x 12 x17 = Rs.11,01,600/-
(v)	Loss of estate	Rs.1,00,000/-
(vi)	Loss of consortium	Rs.1,00,000/-
(vii)	Loss of love and affection for minor children	Rs.3,00,000/- (Rs.1,00,000/- each)
(viii)	Loss of love and affection for parents	Rs.1,00,000/- (Rs.50,000/- each)
(ix)	Funeral expenses	Rs.25,000/-
(x)	TOTAL COMPENSATION AWARDED	Rs.17,26,600/-
	Enhanced amount of compensation	Rs.17,26,600 – 5,56,800 = Rs.11,69,800/-

The enhanced amount of compensation of **Rs.11,69,800/-** 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.

08.09.2015
ajp

(RITU BAHRI)
JUDGE