

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

**FAO No.2148 of 2012 (O&M)
Date of decision: 10.12.2015**

Smt. Santosh Devi and others

....Appellants

Versus

Sunder Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. S.K.Tripathi, Advocate,
for the appellants.

Mr. Banni Thomas, Advocate,
for respondent No.3 and 6.

RITU BAHRI J. (Oral)

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 03.06.2011, on account of death of Ravinder in a motor vehicular accident which took place on 27.12.2008. Appellant No. 1 is widow, whereas appellant Nos.2 to 4 are sons of deceased Ravinder.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 27.12.2008, deceased-Ravinder along with Lila Ram Gupta and other 40/50 passengers were travelling in a bus bearing registration No. RJ-32-PA-0538, which was going to Dharuhera from Rewari. When the said bus reached near Somany Vidhya Peeth, Masani, Dharuhera, another bus bearing registration No.HR-47-8473, which was going to Rewari from Dharuhera, being driven by its

driver in a rash and negligent manner came and struck against the first bus, as a result of which, two passengers namely Madhav Prasad and Ravinder died at the spot. One Sarjana died on 28.12.2008 during his treatment in a hospital at Gurgaon. Other passengers of both the buses also received multiple and grievous injuries. The accident had taken place on account of rash and negligent driving of both the drivers of the aforesaid buses. With regard to the accident, FIR No.404 dated 27.12.2008, under Sections 279/337/304-A of IPC was registered against respondent Nos.1 and 4. Consequently, the claimants filed separate claim petition before the Tribunal, which were decided by a common Award.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had been caused on account of rash and negligent driving of both the offending buses by Sunder Singh-respondent No.1 & Ajay-respondent No.4 thus, returned the finding on Issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of PW1, PW-5, PW-6, PW-9 and PW-12, whereby they have reiterated the version given in the claim petitions. Postmortem examinations on the dead bodies of Madho Prasad, Sarjana and Ravinder were conducted vide reports Ex.P1, Ex.P2 and Ex.P9. With regard to the accident, FIR No.404 dated 27.12.2008 under Sections 279/337/304-A IPC was registered against respondent Nos. 1 and 4, copy thereof has been proved on record as Ex.P6. Ultimately, the claim petition was accepted by the Tribunal and a sum of Rs.4,85,800/- was awarded as compensation on account of death of Ravinder. The income of deceased was taken as Rs.3600/- per month, out of which, 1/3rd amount was deducted towards

personal expenses of deceased. The dependency of claimants, thus, came to Rs.2400/- per month. As per postmortem report, the deceased was 38 years of age at the time of accident/death and the multiplier of 16 was applied. Thus, the claimants were found entitled to compensation of Rs.4,60,800/- (Rs.2400/- x 12 x 16). In addition to this, an amount of Rs.25,000/- was awarded towards last rites of deceased. Hence, the claimants were found entitled to total compensation of Rs.4,85,800/- along with interest @ 6% per annum from the date of filing of the petition till realization. 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, *New India Assurance Company Limited vs Gopali and others*, 2012 (12) SCC 198, *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, as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.3600/- per month

(ii)	50% of (i) above to be added as future prospects	$3600 + 1800 = \text{Rs.}5400/-$
(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	$5400 - 1800 = \text{Rs.}3600/-$
(iv)	Compensation after multiplier of 16 is applied	$\text{Rs.}3600/- \times 12 \times 16 = \text{Rs.}6,91,200/-$
(v)	Loss of consortium for the widow	$\text{Rs.}1,00,000/-$
(vi)	Loss of estate	$\text{Rs.}1,00,000/-$
(vii)	Loss of love and affection for the children	$\text{Rs.}3,00,000/-$ ($\text{Rs.}1,00,000/-$ each)
(viii)	Funeral expenses	$\text{Rs.}25,000/-$
(ix)	TOTAL COMPENSATION AWARDED	$\text{Rs.}12,16,200/-$
(x)	Enhanced amount of compensation	$\text{Rs.}12,16,200 - 4,85,800 = \text{Rs.}7,30,400/-$

The enhanced amount of compensation of **Rs.7,30,400/-** 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

10.12.2015
ajp