

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

FAO No.2564 of 2012 (O&M)

Date of decision: 08.09.2015

Lakhwinder Kaur and others

.....Appellants

Versus

Gurdit Singh and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Nitin Goyal, Advocate,
for Mr. Sanjiv Gupta, Advocate,
for the appellants.

Mr. Sherry K. Singla, Advocate,
for respondent N.1.

Mr. Ashwani Talwar, Advocate,
for respondent No.3-Insurance Company.

Ritu Bahri, J.

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'the Tribunal') vide award dated 03.11.2011 on account of death of Raghbir Singh in a vehicular accident. Appellant No.1 is widow, appellant Nos.2 and 3 are daughters, appellant No.4 is son and appellant No.5 is mother of deceased Raghbir Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 04.06.2010 at about 5.30 p.m., Raghbir Singh (deceased) was returning to his house from office on his Platina Motorcycle bearing registration No.PB-13-W-2247. His brother Jagtar Singh was following him on a separate motorcycle. When Raghbir Singh reached near the brick kiln at Nabha-Thuhi road, a truck (tipper)

bearing registration No. PB-23-H-9611, loaded with earth, being driven in a

rash and negligent manner, came from the opposite side and struck against the motorcycle of Raghbir Singh, as a result of which, he suffered multiple injuries. He was taken to Civil Hospital, Nabha, where the doctors declared him dead. The offending truck (tipper) was being driven by Kirpal Singh-respondent No.2. In this regard, FIR No.85 dated 05.06.2010, under Sections 279/427/304-A IPC was got registered by Jagtar Singh, eye witness. Consequently, the claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

The Tribunal, on the basis of evidence led by the parties, came to a conclusion that the accident took place on account of rash and negligent driving of truck (tipper) bearing registration No.PB-23-H-9611 by Kirpal Singh-respondent No.2. The date of birth of the petitioner, as per record, was 04.04.1968 and on the date of accident, he was 42 years of age. Ultimately, the claim petition was accepted by the The tribunal and a sum of Rs.21,52,000/- was awarded as compensation on account of death of Raghbir Singh along with future interest at the rate of 6% per annum from the date of filing of the petition till its realization. The monthly income of the deceased was assessed at Rs.14,646/- per month. After making addition of 30% qua future prospects, the earnings of the deceased was taken as Rs.19,039/-. Further after deduction of income tax, monthly earnings of the deceased were taken as Rs.17,000/-, out of which 1/4th amount was deducted towards personal expenses. The dependency of claimants, thus, came to Rs.12,750/- per month approximately, which came to Rs.1,53,000/- per annum. The deceased was 42 years of age at the time of the accident/death and the multiplier of 14 was applied. Thus, the claimants were found

entitled to compensation of Rs.21,42,000/-. In addition to it, further compensation of Rs.5000/- was awarded towards funeral expenses and Rs.5000/- towards loss of consortium. Hence the claimants were found entitled to total compensation of Rs.21,52,000/-.

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.14646/- per month
(ii)	30% of (i) above to be added as future prospects	Rs.14646 + Rs.4393 = Rs.19039/-
(iii)	After deducting income tax (as deducted by the Tribunal), monthly earnings	Rs.17,000/-
(iv)	1/4 th of (ii) deducted as personal expenses of the deceased	Rs.17000 - 4250 = Rs.12750/-
(v)	Compensation after multiplier of 14 is applied	Rs.12750 x 12 x14 = Rs.21,42,000/-
(vi)	Loss of estate	Rs.1,00,000/-
(vii)	Loss of consortium	Rs.1,00,000/-

SR. No.	HEADS	CALCULATION
(viii)	Loss of love and affection for minor children	Rs.3,00,000/- (Rs.1,00,000 each)
(ix)	Loss of love and affection for mother	Rs..50,000/-
(x)	Funeral expenses	Rs.25,000/-
(xi)	TOTAL COMPENSATION AWARDED	Rs.27,17,000/-
	Enhanced amount of compensation	Rs.27,17,000 – 21,52,000 = Rs.5,65,000/-

The enhanced amount of compensation of **Rs.5,65,000/-** 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.

08.09.2015
ajp

(RITU BAHRI)
JUDGE