

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

**FAO No.278 of 2012
Date of decision: 02.11.2015**

Tipu Ram @ Tipu and others

....Appellants

Versus

Tejinder Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Rahul Jaswal, Advocate
for Mr. Vivek K. Thakur, Advocate
for the appellants.

Mr. Puneet Sharma, Advocate
for respondent No.3.

RITU BAHRI J. (Oral)

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 30.07.2011, on account of death of Ravi Kumar in a motor vehicular accident.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 09/10.12.2007 at about 03:00 a.m., Ravi Kumar along with Sunny, Sunil and Jaswant Singh was travelling in the offending jeep bearing registration No.RJ-13-GA-1163, being driven by respondent No.4

at a very high speed en-route from Abu Road towards Haryana when the said jeep reached near Jodhpur, Jhalamand, Bye-pass was involved in a head-on collision with the offending truck bearing registration No.PB-05-M-9523, driven by respondent No.1 from the opposite direction in a rash and negligent manner at excessively high speed. After the accident, the passerby removed Ravi Kumar along with other injured persons to Sr. S.N. Medical College and M.D.M. Hospital, Jodhpur. Ravi Kumar remained admitted in the hospital till 13.12.2007, on which date he was shifted to Jam Orthopedic Hospital, Sirsa. He remained admitted there upto evening of 15.12.2007, whereupon at about 07:00 p.m. on 15.12.2007, he was again shifted to Government General Hospital, Sirsa, where he succumbed to his injuries.

In this regard, FIR No.329 dated 11.12.2007, under Sections 279 and 337 IPC, in respect of the accident in question was got registered at Police Station Basani, Jodhpur, at the instance of Rajesh Kumar.

Consequently, the claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

Before the Tribunal, Sunny appeared as PW-3 and proved the accident in question. He has also proved the FIR Ex.P-10, which was got registered by Rajesh Kumar. Jamna @ Babli appeared as PW-1 and tendered her affidavit Ex.PW-1/A.

Neither the driver of the offending vehicle nor any other person claiming to have witnessed the accident appeared in the witness-box to rebut the statement of PW-3 and PW-1 and the Tribunal has returned the finding on Issue No.1 in favour of the claimant-appellant.

The claim petition was partly accepted by the Tribunal and a sum of Rs.4,63,600/- was awarded as compensation on account of death of Ravi Kumar 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 as daily wager was assessed at Rs.3,600/- per month, out of which 1/4th amount was deducted towards personal expenses. The dependency of the claimants, thus, came to Rs.2,700/- per month, which came to Rs.32,400/- per annum. Ravi Kumar (deceased) was 22 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.4,53,600/-. In addition to it, further compensation of Rs.5,000/- was awarded towards loss of estate and Rs.5,000/- was awarded towards funeral expenses. Hence, the claimants were found entitled to total compensation of Rs.4,63,600/-.

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	CALCULATIONS
(i)	Annual Income	Rs.43,200/-
(ii)	50% of (i) above to be added as future prospects (Age 22 years)	(Rs.43,200/-) + (Rs.21,600/-) = Rs.64,800/-
(iii)	Dependency of the claimant after deducing 1/4th of (ii) towards personal expenses of the deceased	(Rs.64,800/-) - (Rs.16,200) = Rs.48,600/-
(iv)	Compensation after multiplier of 18	(Rs.48,600/- x 18) =Rs.8,74,800/-
(v)	Loss of estate	Rs.1,00,000/-
(vi)	Loss of love and affection to parents of the deceased	Rs.1,00,000/- (Rs.50,000/- each)
(vii)	Funeral expenses	Rs.25,000/-
(viii)	TOTAL COMPENSATION AWARDED	Rs.10,99,800/-
(ix)	Enhanced amount of compensation	(Rs.10,99,800/-) – (Rs.4,63,600/-) =Rs.6,36,200/-

The enhanced amount of compensation of **Rs.6,36,200/-** 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

02.11.2015
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