

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

**FAO No.3585 of 2012
Date of decision: 16.10.2015**

Ramrati and others

....Appellants

Versus

Ram Kumar @ Raj Kumar and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. M.S. Chahal, Advocate
for the appellants.

Ms. Vandana Malhotra, 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, Gurgaon (hereinafter referred to as 'the Tribunal') vide award dated 28.01.2012, on account of death of Pardeep Kumar in a motor vehicular accident.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 08.03.2010, Pardeep Kumar on motorcycle bearing registration No.HR-26-AP-3446, was going to his house on Rewari-Pataudi Road. As such, at about 01:30 a.m., he reached ahead of bus stand Mojmadabad near old

mosque, without any indicator or light. His motorcycle struck against the truck. Resultantly, he sustained injuries and succumbed to his injuries. The accident was witness by Mitthan Lal going on motorcycle No.HR-26-AL-2289.

In this regard, FIR No.47 dated 08.03.2010, under Sections 283 and 304-A of the Indian Penal Code, 1860, in respect of the accident in question was got registered at Police Station Pataudi by Mitthan Lal.

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

COMPENSATION ASSESSED BY THE MACT

Before the Tribunal, Ramrati appeared as PW-1 and tendered her affidavit Ex.PW-1/A to prove the accident in question. PW-4-Mitthan Lal (eye-witness) also tendered his affidavit Ex.PW-4/A, to corroborate the testimony of PW-1 and he proved the copy of FIR Ex.PY. PW-3, Narender, Ahlmad in the Court of Judicial Magistrate Ist Class, Gurgaon, stated that the case titled as 'State vs Ram Kumar' through FIR No.47 dated 08.03.2010, under Section 283 and 304-A IPC, Police Station Pataudi was pending. Charge against accused-Ram Kumar was framed under Sections 283 and 304-A IPC. He proved the copies of DL, RC and insurance policy as Ex.PW-3/A to Ex.PW-3/C, respectively.

On the basis of evidence led by the parties, the

Tribunal has rightly returned the finding on Issue No.1 in favour of the claimants-appellants.

The claim petition was partly accepted by the Tribunal and a sum of Rs.5,13,000/- was awarded as compensation on account of death of Pardeep 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 was assessed at Rs.4,500/- per month, out of which 1/3rd amount was deducted towards personal expenses. The dependency of claimants, thus, came to Rs.3,000/- per month, which came to Rs.36,000/- per annum. Pardeep Kumar (deceased) was 36 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.5,04,000/-. In addition to it, further compensation of Rs.5,000/- was awarded towards consortium, Rs.2,000/- in respect of transport expenses and Rs.2,000/- in respect of funeral expenses. Hence, the claimants were found entitled to total compensation of Rs.5,13,000/-.

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, *New India Assurance Company Limited vs Gopali and others*, 2012 (12) SCC 198, *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.4,500 x 12)	Rs.54,000/-
(ii)	50% of (i) above to be added as future prospects (Age 36 years)	(Rs.54,000/-) + (Rs.27,000/-) = Rs.81,000/-
(iii)	Dependency of the claimant after deducting 1/10th of (ii) towards personal expenses of the deceased	(Rs.81,000/-) - (Rs.8,100) = Rs.72,900/-
(iv)	Compensation after multiplier of 15 is applied	(Rs.72,900/- x 15) =Rs.10,93,500/-
(v)	Loss of consortium	Rs.1,00,000/-
(vi)	Loss of estate	Rs.1,00,000/-
(vii)	Loss of love and affection for minor children	Rs.3,00,000/- (Rs.1,00,000/- each)
(viii)	Funeral expenses	Rs.25,000/-
(ix)	TOTAL COMPENSATION AWARDED	Rs.16,18,500/-
(x)	Enhanced amount of compensation	(Rs.16,18,500/-) – (Rs.5,13,000/-) =Rs.11,05,500/-

The enhanced amount of compensation of

Rs.11,05,500/- 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

16.10.2015
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