

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

**FAO No.3629 of 2012 (O&M)
Date of decision: 21.09.2015**

Partap Singh and another

....Appellants

Versus

Mukesh Kumar and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. B.R.Gupta, Advocate
for the appellants.

None for the respondents.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Jhajjar (hereinafter referred to as 'the Tribunal') vide award dated 09.04.2012, on account of death of Satish Kumar in a motor vehicular accident.

FACTS NOT IN DISPUTE

Brief facts of the case are that Satish Kumar (since deceased) was serving as Security Guard with G4S Security Agency and he was deputed as such at a Call Centre situated at Gurgaon. On 08.08.2009, during night hours, Satish Kumar along with other staff members, namely, Divya Sinha, Raini Sinha,

Saurav Seth, Bheem Singh Negi and Prashan Upadhaya were coming back from Call Centre, Gurgaon to their respective residences in the offending vehicle. Respondent No.1 was driving the offending vehicle in a rash and negligent manner and at high speed. All the occupants of the offending vehicle asked respondent No.1 to drive it properly at moderate speed but respondent No.1 did not pay any heed to their request. Ultimately, when the offending vehicle reached at Shanti Path, Main Road, near Railway Flyover, Moti Bagh Ist, New Delhi, respondent No.1 took a sharp turn on his left side due to which the offending vehicle run over the footpath and turned turtle on a link road and the accident in question occurred. In the accident, all the occupants including Satish Kumar suffered multiple injuries on their person. Satish Kumar died at the spot. Satish Kumar and other injured persons were shifted to AIIMS, New Delhi. In this regard, FIR No.390 dated 08.08.2009, in respect of the accident in question was got registered at Police Station Ram Krishna Puram, Delhi on the statement of injured Prashant Upadhaya. Consequently, the claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

Before the Tribunal, PW-2 Parkash Chand, Sub-Inspector of Police Station R.K. Puram, appeared who proved the registration of FIR No.390 dated 08.08.2009, and has stated that he had visited the spot and recorded the statement of one injured,

namely, Prashant Uphadaya and thereafter, proved the FIR (Ex.P-3). A criminal case based on FIR (Ex.P-3) is pending against the driver-respondent No.1. 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-2 Parkash Chand, Sub-Inspector and the Tribunal has returned the finding on Issue No.1 in favour of the claimants-appellants.

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 by Mukesh Kumar-respondent No.1. The claim petition was accepted by the tribunal and a sum of Rs.2,87,000/- was awarded as compensation on account of death of Satish Kumar along with future interest at the rate of 7% per annum from the date of filing of the petition till its realization.

The monthly income of the deceased was assessed at Rs.4,200/- per month, out of which 50% amount was deducted towards personal expenses. The dependency of claimants, thus, came to Rs.2,100/- per month, which came to Rs.25,200/- per annum. Satish Kumar (deceased) was 22 years of age at the time of the accident/death and the multiplier of 11 was applied. Thus, the claimants were found entitled to compensation of Rs.2,77,000/-. In addition to it, further compensation of Rs.10,000/- was awarded towards transportation and last rites of

the deceased. Hence, the claimants were found entitled to total compensation of Rs.2,87,000/-.

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	CALCULATIONS
(i)	Annual Income	Rs.50,400/-
(ii)	50% of (i) above to be added as future prospects (Age 22 years)	(Rs.50,400/-) + (Rs.25,200/-) = Rs.75,600/-
(iii)	Dependency of the claimant after deducting 50% of (ii) towards personal expenses of the deceased	(Rs.75,600/-) - (Rs.37,800) = Rs.37,800/-
(iv)	Compensation after multiplier of 18 is applied	(Rs.37,800/- x 18) =Rs.6,80,400/-

(v)	Loss of estate	Rs.1,00,000/-
(vi)	Loss of love and affection for parents	Rs.1,00,000/- (Rs.50,000/- each)
(vii)	Funeral expenses	Rs.25,000/-
(viii)	TOTAL COMPENSATION AWARDED	Rs.9,05,400/-
(ix)	Enhanced amount of compensation	(Rs.9,05,400/-) – (Rs.2,87,000/-) =Rs.6,18,400/-

The enhanced amount of compensation of **Rs.6,18,400/-** 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

21.09.2015
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