

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

FAO No.4310 of 2012 (O&M)

Date of decision: 14.10.2015

Hardev Singh and another

.....Appellants

Versus

Charanjit Singh and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Madan Sandhu, Advocate,
for the appellants.

Mr. R.C. Kapoor, 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, Mansa (hereinafter referred to as 'the Tribunal') vide award dated 29.03.2012 on account of death of Gurmail Singh in a vehicular accident, which took place on 13.08.2010. Appellants are parents of deceased Gurmail Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 12.08.2010, deceased-Gurmail Singh along with Raju Singh and Charanjit Singh had gone to Hamirpur (HP) on a truck bearing registration No. PB-11-Y-9438 for loading the barley. The said truck was being driven by Charanjit Singh-respondent No.1. On the next day i.e. 13.08.2010 when Charanjit Singh-driver was unloading the barley from the said truck, suddenly the truck got overturned and its front mirror had broken. Charanjit Singh-driver and Raju managed to

come out of the truck. However, when Gurmail Singh tried to save himself

by coming out of the truck, it again overturned, as a result of which, Gurmail Singh had come beneath the truck and died at the spot. With regard to the accident, FIR No.279 dated 14.08.2010, under Sections 279, 337, 304-A IPC was registered at Police Station, Sadar Hamirpur (HP) at the instance of Raju. Consequently, the claimant-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal has returned a finding on issue No.1 that the accident had taken place on account of rash and negligent driving of truck bearing registration No.PB-11-Y-9438 by Charanjit Singh-respondent No.3 (respondent No.1 in the claim petition), as a result of which, Gurmail Singh received injuries and died at the spot. This finding is rightly based on the depositions of Mohinder Kaur (CW-1) and Jasvir Singh (CW-2), who have reiterated the version given in claim petition. FIR (Ex.C1) was registered at the instance of Raju. Apart from this, claimants had also proved postmortem report and death certificate of deceased-Gurmail Singh a Ex.C2 and Ex.C3 respectively. The offending vehicle was insured with the appellant-insurance company.

In the absence of any evidence regarding income, the Tribunal had assessed the compensation by taking the income of deceased as Rs.3000/- per month as a daily wager, out of which, 1/3rd was deducted towards personal expenses of the deceased. The annual dependency of the claimants, thus, came to Rs.24,000/- (Rs.2000 x 12). Keeping in view of the age of claimants, multiplier of 7 was applied and they were held entitled to a sum of Rs.1,68,00/- (Rs.24,000/- x 7) as compensation. In addition to it, Rs.5000/- were awarded towards funeral expenses of the deceased.

Ultimately, the claimants were held entitled to compensation to the tune of Rs.1,73,000/- along with interest at the rate of 7.5% per annum from the date of filing of the petition till its 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.

Learned counsel for respondent No.3-Insurance Company has referred to the judgment passed by the Hon'ble Supreme Court in **Shashikala and others Vs. Gangalakshamma and another**, 2015 ACT 1239, wherein reference has been made to the judgment delivered in **National Insurance Co. Ltd. Vs. Pushpa**, SLP (C) No.16735 of 2014, which has been referred to the larger Bench vide order dated 02.07.2014 to consider the addition of future prospects in the case of self employer person on fixed wage.

At the same time, the Hon'ble Supreme Court in another judgment passed in **Munna Lal Jain and another vs. Vipin Kumar Sharma and others**, 2015 (3) Recent Apex Judgments 459, while referring to the decision given in **Rajesh Vs. Rajbir Singh**, 2013 (3) RCR (Civil) 170, has given addition of 50% of future prospects to the actual income of the deceased, who was self employed person. The Hon'ble Supreme Court has further observed as under:-

“11. As far as future prospects are concerned, in ***Rajesh and others v. Rajbir Singh and others, 2013 (3) RCR (Civil) 170***, a three-Judge Bench of this Court held that in case of self-employed persons also, if the deceased victim is below 40 years, there must be addition of 50% to the actual income of the deceased while computing future prospects. To quote:

“8. Since, the Court in Santosh Devi case actually intended to follow the principle in the case of salaried persons as laid down in Sarla Verma's case and to make it applicable also to the self-employed and persons on fixed wages, it is clarified that the increase in the case of those groups is not 30% always; it will also have a reference to the age. In other words, in the case of self-employed or persons with fixed wages, in case, the deceased victim was below 40 years, there must be an addition of 50% to the actual income of the deceased while computing future prospects. Needless to say that the actual income should be income after paying the tax, if any. Addition should be 30% in case the deceased was in the age group of 40 to 50 years.”

The deceased being of the age of 30 years, 50% is the required addition.”

In view of the above judgment, future prospects have to be added to the actual income of the deceased.

Accident in the present case took place on 12.08.2010. As per minimum rates of wages in the State of Punjab in the year 2010, wage of an unskilled labourer was Rs.3692/- per month. Therefore, the income of deceased-Gurmail Singh can be taken as R.3700/- per month in this case being a daily wager.

Hence, 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 passed in **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** (supra) and **Munna Lal Jain** (supra), as under:-

SR. No.	HEADS	CALCULATION
(i)	Income	Rs.3700/- per month
(ii)	50% of (i) above to be added as future prospects	Rs.3700 + Rs.1850 = Rs.5550/-
(iii)	50% of (ii) deducted as personal expenses of the deceased	Rs.5550/- 2775 = Rs.2775/-
(iv)	Compensation after multiplier of 15 is applied	Rs.2775 x 12 x15 = Rs.4,99,500/-
(v)	Loss of love and affection for the parents	Rs.1,00,000/- (Rs.50,000/- each)
(vi)	Funeral expenses	Rs.25,000/-
(vii)	TOTAL COMPENSATION AWARDED	Rs.6,24,500/-
	Enhanced amount of compensation	Rs.6,24,500 – 1,73,000/- = Rs.4,51,500/-

The enhanced amount of compensation of **Rs.4,51,500/-** 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.

14.10.2015
ajp

(RITU BAHRI)
JUDGE