

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

**FAO No.4336 of 2012
Date of decision: 21.12.2015**

Shashi Bala and another

....Appellants

Versus

Balwinder Kumar and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr.Namit Khurana, Advocate
for the appellant.

Mr. Rajbir Singh, Advocate
for respondent No.3.

RITU BAHRI J. (Oral)

CM No.18893-CII of 2012

For the grounds mentioned in the application, the same is allowed and the delay of 101 days in filing the appeal stands condoned.

MAIN CASE

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Yamunanagar at Jagadhri (hereinafter referred to as 'the Tribunal') vide award dated 10.01.2012, on account of death of Ravinder Kumar in a motor vehicular accident.

FACTS NOT IN DISPUTE

On 25.01.2011, Ravinder Kumar (since deceased) was coming from village Bhambholi to Jagadhri on his Activa bearing No.HR-02-N-2850. He was driving the Activa at a slow speed by observing the traffic rules on his correct side and was being followed by his sons Vinit Kumar and Sanjeev Kumar on a motorcycle bearing No.HR-02-W-0840. At about 05:00 p.m., when they reached opposite the house of Advocate Khurana, Ambala Road, Jagadhri, a truck bearing No.HR-58-A-1403 being driven by respondent No.1 in a rash and negligent manner as well as at a high speed, came from the back side and hit the Activa. Due to which, Ravinder Kumar fell down and suffered multiple grievous injuries on his head and other parts of the body. He was taken to the Civil Hospital, Jagadhri, where he was declared dead due to the injuries sustained in this accident. The post-mortem examination on his body was conducted in that hospital on 26.01.2011.

In this regard, FIR No.49 dated 25.01.2011, under Sections 279 and 304-A IPC, in respect of the accident in question, was got registered at Police Station City Jagadhri, at the instance of Vinit Kumar.

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

COMPENSATION ASSESSED BY THE MACT

Before the Tribunal, Shashi Bala appeared as PW-3 and tendered her affidavit Ex.PW-3/A, to prove the accident in question. Vinit Kumar (eye-witness) appeared as PW-2 and tendered his affidavit Ex.PW-2/A. The claimants-respondents have also tendered in evidence the copies of the report under Section 173 Cr.P.C., Site Plan, Post-mortem report, FIR and the Ration Card as Ex.P-1 to Ex.P-5, respectively as well as the Death Certificate as Ex.P-6. Ultimately on the basis of the evidence led by the parties, the Tribunal has come to the conclusion that the accident in question was occurred due to the rash and negligent driving by respondent No.1 and the Tribunal has returned the finding on Issue No.1 in favour of the claimants-respondents.

The claim petition was accepted by the Tribunal and a sum of Rs.6,52,000/- was awarded as compensation on account of death of Ravinder Kumar along with future interest at the rate of 7.5% per annum from the date of filing of the petition till its realization.

The Tribunal has taken the income of deceased as Rs.11,000/- per month. Out of which 1/3rd amount was deducted towards personal expenses. The dependency of the claimants, thus, came to Rs.7,525/- per month, which came to Rs.90,300/- per annum. Ravinder Kumar (deceased) was between the age group of 61 to 65 years at the time of the accident/death and the multiplier of 7 was applied. Thus, the claimants were found entitled to

compensation of Rs.6,32,100/-. In addition to it, further compensation of Rs.10,000/- was awarded on account of loss of consortium and Rs.5,000/- was awarded towards loss of estate and another sum of Rs.5,000/- towards funeral expenses. Hence, the claimants-respondents were found entitled to total compensation of Rs.6,52,100/- (rounded off to Rs.6,52,000/-).

Feeling dis-satisfied with the aforesaid award, the Insurance Company has preferred the present appeal.

REASSESSED COMPENSATION

I have heard learned counsel for the parties and perused the record.

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
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(i)	Annual Income (Rs.11,000 x 12)	Rs.1,32,000/-
(ii)	Dependency of the claimant after deducting 1/3rd of (i) towards personal expenses of the deceased	(Rs.1,32,000/-) - (Rs.44,000) = Rs.88,000/-
(iii)	Compensation after multiplier of is applied	(Rs.88,000/- x 7) =Rs.6,16,000/-
(iv)	Loss of estate	Rs.1,00,000/-
(v)	Loss of consortium	Rs.1,00,000/-
(vi)	Funeral expenses	Rs.25,000/-
(vii)	TOTAL COMPENSATION AWARDED	Rs.8,41,000/-
(viii)	Enhanced amount of compensation	(Rs.8,41,000/-) – (Rs.6,52,000/-) =Rs.1,89,000/-

The enhanced amount of compensation of **Rs.1,89,000/-** 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.

(RITU BAHRI)
JUDGE

21.12.2015
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