

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

**FAO No.4365 of 2012 (O&M)
Date of decision: 22.09.2015**

Baljit Kaur

....Appellant

Versus

Gurtej Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Gaurav Sharma, Advocate
for the appellant.

Mr. Aditya Kochar, Advocate
for Mr. Ashwani Talwar, Advocate
for respondent No.3.

RITU BAHRI J. (Oral)

CM-18930-CII-2012

For the reasons mentioned in the application, the same is allowed and the delay of 175 days in filing the appeal stands condoned.

MAIN CASE

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Sangrur (hereinafter referred to as 'the Tribunal') vide award dated 20.10.2011, on account of death of Bikkar Singh in a motor vehicular accident, which took place on

07.02.2010.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 07.02.2010, Nikka Singh accompanied by Bikkar Singh (deceased) were coming to his village Bangawali from village Changal on a scooter which was being driven by Bikkar Singh and Nikka Singh was pillion-rider. On the way at about 07:00 p.m. when they reached near poultry farm within the area of village Khilrian, a tractor make Sonalika bearing registration No.PB-13-Q-5645 being driven by Gurtej Singh, in a rash and negligent manner and without blowing any horn came and hit the scooter. As a result of which, both the occupants fell down on the road. Bikkar Singh sustained multiple serious injuries and was rushed to Civil Hospital, Sangrur, where he succumbed to his injuries. In this regard, FIR No.13 dated 08.02.2010, under Sections 279, 337, 338, 304-A and 427 IPC, was got registered at Police Station Sadar, Sangrur, in respect of the accident in question. Consequently, the claimant-appellant filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

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 Gurtej Singh-respondent No.1 and has returned the finding on Issue No.1 in favour of the claimant-appellant. The claim petition was accepted by the

tribunal and a sum of Rs.3,00,000/- was awarded as compensation on account of death of Bikkar Singh 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.2,500/- per month as he was an unskilled daily wager, out of which 50% amount was deducted towards personal expenses i.e. Rs.1,250/-. The dependency of claimants, thus, came to Rs.1,250/- per month, which came to Rs.15,000/- per annum. Bikkar Singh (deceased) was 18 years of age at the time of the accident/death and the claimant was found entitled to compensation of Rs.3,00,000/- in all, including funeral expenses, transportation, loss of love and affection, etc.

Feeling dissatisfied with the impugned award, the claimant-appellant has 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. The deceased was 18 years unskilled daily wager and his income of Rs.2,500/- in the year 2010 has been assessed by the Tribunal.

Keeping in view the Price Index for the year 2010, the income of the deceased has been taken as Rs.3,500/- per month. Accordingly, the compensation is re-assessed as under:-

SR. NO.	HEADS	CALCULATIONS
(i)	Annual Income (Rs.3,500/- x 12)	Rs.42,000/-
(ii)	50% of (i) above to be added as future prospects (Age 18 years)	(Rs.42,000 /-) + (Rs.21,000/-) = Rs.63,000/-
(iii)	Dependency of the claimant after deducting 50% of (ii) towards personal expenses of the deceased	(Rs.63,000/-) - (Rs.31,500/-) = Rs.31,500/-
(iv)	Compensation after multiplier of 18 is applied	(Rs.31,500/- x 18) =Rs.5,67,000/-
(vi)	Loss of estate	Rs.1,00,000/-
(vii)	Loss of love and affection to the mother	Rs.50,000/-
(vii)	Funeral expenses	Rs.25,000/-
(viii)	TOTAL COMPENSATION AWARDED	Rs.7,42,000/-
(ix)	Enhanced amount of compensation	(Rs. 7,42,000/-) – (Rs.3,00,000/-) =Rs.4,42,000/-

The enhanced amount of compensation of **Rs.4,42,000/-** 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

22.09.2015
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