

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

F.A.O No. 4632 of 2012

Date of decision:- 15.12.2015

Basanti Devi and others

...Appellants

Versus

Jaginder Kumar and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Munish Mittal, Advocate
for the appellant

Mr. S.S. Sidhu, Advocate
for respondent No. 3

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RITU BAHRI J. (Oral)

1. The present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 09.05.2012 passed by the learned Motor Accident Claims Tribunal, Karnal (for short, 'the Tribunal') to the tune of Rs.2,38,800/-.

FACTS NOT IN DISPUTE

2. On 21.06.2009, Sheesh Pal along with his brother Ashok Kumar was going on his motorcycle bearing registration No. HR 05 1396, being driven by Ashok Kumar Sheesh Pal was a pillion rider on the said motorcycle. When they reached at Pachonda bye-pass, a

tanker bearing registration No. GJ-12Z-0366, being driven by respondent No. 1 in a rash and negligent manner came from Roorkee side and hit the motorcycle of Ashok Kumar, as a result of which, Ashok Kumar and Sheesh Pal fell on the road along with motorcycle and sustained multiple and grievous injuries. They were shifted to Civil Hospital Muzaffarnagar where Sheesh Pal died on account of the injuries sustained by him in the aforesaid accident. F.I.R No. 220 dated 21.06.2009 u/ss 279/308/304-A/427 IPC has been registered at P.S. New Mandi, Muzaffarnagar, U.P against respondent No. 1.

3. The learned tribunal held that the deceased was 18 years old and was studying. He was not doing any job. The factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company.

Sr. No.	Heads	Calculations
(i)	Salary	Rs.4200/- per month
(ii)	1/2 of (ii) deducted as personal expenses of the deceased=	Rs.4200-Rs.2100=Rs.2100 per month
(iv)	Compensation after multiplier of 9 is applied	Rs.2100 X 12 X 9= Rs.2,26,800/-
(v)	Loss of love and affection to parents	Rs.5,000/-
(vi)	Funeral charges	Rs.2000/-
(vii)	Loss of Estate	Rs.5000/-
	Total compensation	Rs.2,38,800/-

4. The learned counsel for the claimant-appellant contends that the compensation awarded by the learned Tribunal is on the

lower side and deserves to be enhanced, in view of the judgment

"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', Asha Verma and others vs. Maharaj Singh and others, 2015(2) RCR (Civil) 520 and Kalpanaraj and others v. Tamil Nadu State Transport Corporation, 2015(2) SCC (Civil) 193.

Learned counsel submits that the Tribunal has erred in law by applying the multiplier of 8 by taking the age of parents and further nothing has been awarded towards future prospect.

5. On the other hand, the learned counsel for the respondent has vehemently opposed the present appeal.

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

RE-ASSESSED COMPENSATION

7. It is not in dispute that the offending vehicle was fully insured with the Insurance company.

8. Following the ratio of law laid down by Hon'ble the Supreme Court in the above mentioned judgments, the compensation has to be re-assessed as follows:-

Sr. No.	Heads	Calculations
(i)	Salary	Rs.4200/- per month
(ii)	50% of (i) above to be added as future prospects=	Rs.4200+Rs.2100=Rs.6300/- per month
(iii)	1/2 of (ii) deducted as personal expenses of the deceased=	Rs.6300-Rs.3150=Rs.3150 per month
(iv)	Compensation after multiplier of 18 is applied	Rs.3150 X 12 X 18= Rs.6,80,400/-
(v)	Loss of love and affection to parents	Rs.50,000 each (Rs.1,00,000/-)
(vi)	Funeral charges	Rs.25,000/-
(vii)	Total Compensation awarded	8,05,400/-
	Enhanced amount of compensation	Rs.8,05,400-Rs.2,38,800=Rs.5,66,600/-

9. Resultantly, the enhanced amount of compensation of Rs.5,66,600/- shall be payable within a period of forty five days 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 a 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.

10. With the aforesaid modification in the impugned award, the appeal is allowed to the above extent.

15.12.2015

G Arora

(RITU BAHRI)
JUDGE