

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

F.A.O No. 4810 of 2012

Date of decision:- 16.11.2015

Smt. Hamidan and others

...Appellants

Versus

Sabir Hussain and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Ashish Gupta, Advocate
for the appellants

Mr. Rajesh Bansal, 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 23.08.2011 passed by the learned Motor Accident Claims Tribunal, Nuh (for short, 'the Tribunal') to the tune of Rs.7,85,349/-.

FACTS NOT IN DISPUTE

2. On 10.02.2009, Shahbudin (since deceased) was going to his village Ghasera from Village Malai and when he reached out of village Malai then a motorcycle bearing registration No. HR-29-M-2048 came from front side at a high speed, being driven by Hasnu, hit the

motorcycle of the deceased after coming on wrong side of road, as result of which Shahabudin sustained multiple serious injuries and died in Om Hospital after 9 days during treatment. F.I.R No. 35/09 was registered against Hasnu (since deceased)

3. 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 Verman 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.***

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

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

COMPENSATION ASSESSED BY MACT

6. The learned tribunal did not accept the version of the claimants that the deceased (who was 35 years old) would earn

Rs.8000/- per month as he was void by profession and was running a medical dispensary at village malai. Since the claimants have failed to produce any documentary evidence with regard to his income, the Tribunal took the income of the deceased at Rs.5000/- per month and cut of 1/5th was applied and thereafter, multiplier of 15 was applied. The total loss of dependency to the family comes to Rs.7,20,000/-. Further the claimants were awarded Rs.5000/- towards funeral expenses and Rs.5000 towards loss of estate and Rs.10,000/- towards loss of consortium. Rs.43,549 were awarded towards the amount of bills, spent on the treatment of the deceased.

RE-ASSESSED COMPENSATION

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

8. Reference at this stage can be made to a judgment passed by Hon'ble the Supreme Court in a case of **New India Assurance Co. Ltd v. Gopali and others, 2012 (12) SCC 198** whereby Hon'ble the Supreme Court in an old case of 1992 had taken the monthly income of deceased at Rs.3000/- and cut of 1/10th was imposed, keeping in view the fact that a person having a minimum income of Rs.3000/- could not think of spending 1/3rd of his income on himself.

9. Keeping in view the above mentioned judgments, the

compensation has to be re-assessed as follows :-

Sr. No.	Heads	Calculations
(i)	Salary	Rs.5000/- per month
(ii)	50% of (i) above to be added as future prospects=	Rs.5000+Rs.2500=Rs.7500/- per month
(iii)	1/10 of (ii) deducted as personal expenses of the deceased=	Rs.7500-Rs.750=Rs.6750 per month
(iv)	Compensation after multiplier of 16 is applied	Rs.6750 X 12 X 16= Rs.12,96,000/-
(v)	Medical Bills	Rs.43,549/-
(vi)	Loss of consortium	Rs.1,00,000/-
(vii)	Loss of estate	Rs.1,00,000/-
(vi)	Loss of love and affection to five children	Rs.2,50,000/- (Rs. 50,000/- to each child)
(vii)	Loss of love and affection to parents	Rs.1,00,000/- (Rs. 50,000 each)
(viii)	Funeral charges	Rs.25,000/-
	Total Compensation awarded	19,14,549/-
	Enhanced amount of compensation	Rs.19,14,549-Rs.7,85,349=Rs.11,29,200/- rounded of to Rs.11,29,000/-

10. Resultantly, the enhanced amount of compensation of Rs.11,29,000/- 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.

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

16.11.2015

G Arora

(RITU BAHRI)

JUDGE