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

FAO No.4860 of 2012 (O&M)

Date of decision: 10.12.2015

Savitri

....Appellant

Versus

Krishan & others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Rajesh Bansal, Advocate
for the appellant.

Mr. R.C. Gupta, Advocate
for respondent No.2.

RITU BAHRI J. (Oral)

CM-21362-CII-2015

Prayer made in the application is for condonation
of delay of 954 days in filing the appeal.

It is submitted that during the pendency of the
claim petition, the husband of the appellant had died and
there is no other male member in her family to pursue the
remedy before this Court, as her son Ravinder Kumar had
also died in a road accident which took place on 18.12.2007.

In view of the afore-mentioned fact and for the
reasons mentioned in the application, delay of 954 days in

filing the appeal is condoned.

C.M is allowed.

FAO No.4860 of 2012

The appellant/claimant has come up in appeal against the order dated 08.10.2009 passed by the Motor Accident Claims Tribunal, Panipat (hereinafter referred to as 'the Tribunal'), whereby the Tribunal has awarded a sum of ₹ 3,20,000/- to the appellant/claimant on account of the death of Ravinder Kumar.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 13.12.2007, Ravinder Kumar (deceased) along with his father-Rakam Singh were coming on motorcycle Discover Bajaj (then not registered and later on registered as HR-60A-5325 from Sonapat to village Chulkana. Said Ravinder Kumar was driving the same at a moderate speed while adhering to the traffic rules. At about 10.00 p.m. When they reached on Jaffarpur Road, in the meanwhile from the opposite side, a Swaraj Mazada vehicle bearing registration No.HR-69-2348 driven by respondent No.1 in a rash and negligent manner arrived from the direction of Jaffarpur and struck against the motorcycle. Due to impact of the same, said Ravinder Kumar as well as his father fell down and said Ravinder sustained multiple injuries. His father Rakam Singh after arranging a vehicle, had taken the injured to General Hospital, Panipat for treatment, from there he was referred

to PGIMS, Rohtak and during the treatment at PGIMS, Rohtak, he succumbed to the injuries. At the time of accident, respondent No.1, after causing the accident had stopped the vehicle but thereafter taking advantage of the situation, he fled away from the place of occurrence along with the said vehicle. Regarding this accident, eye witness Rakam Singh, father of the deceased, got lodged an FIR No.306, dated 18.12.2007 under Sections 279, 337 and 304-A of the Indian Penal Code with Police Station Gannaur, District Sonapat, against respondent No.1-Krishan.

Consequently, the claimant-appellant filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

Before the Tribunal, respondents No.1 and 2 had filed their separate written statement controverting the claim of the claimant-appellant.

On the basis of evidence led by the parties, the Tribunal has rightly returned the finding on Issue No.1, in favour of the appellant-claimant.

The claim petition was partly accepted by the Tribunal and a sum of ₹ 3,20,000/- 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 monthly income of the deceased was assessed at ₹ 4,000/- per month, out of which 50% amount

was deducted towards personal expenses. The dependency of claimant, thus, came to ₹ 2,000/- per month, which came to ₹ 24,000/- per annum. Ravinder Kumar (deceased) was 25 years of age at the time of the accident/death and the multiplier of 13 was applied. Thus, the claimants were found entitled to compensation of ₹ 3,12,000/-. The Tribunal further awarded a sum of ₹ 8,000/- towards the funeral expenses. Hence, the claimant-appellant was found entitled to total compensation of ₹ 3,20,000/-.

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. Accordingly, the compensation re-assessed as under:-

SR. NO.	HEADS	CALCULATIONS
(i)	Annual Income	₹ 4,000/- x 12 = ₹ 48,000/- per annum
(ii)	50% of (i) above to be added as future prospects (Age 25 years)	(₹48,000/-) + (₹24,000/-) = ₹ 72,000/-
(iii)	Dependency of the claimant after deducting 50% of (ii) towards personal expenses of the deceased	(₹72,000/-) – (₹ 36,000/-) = ₹ 36,000/-
(iv)	Compensation after multiplier of 18 is applied	(₹ 36,000/- x 18) = ₹ 6,48,000/-
(v)	Loss of love and affection to mother	₹ 50,000/-
(vi)	Funeral expenses	₹ 25,000/-
(vii)	TOTAL COMPENSATION AWARDED	₹ 7,23,000/-
(viii)	Enhanced amount of compensation	(₹ 7,23,000/-) – (₹ 3,20,000/-) = ₹ 4,03,000/-

The enhanced amount of compensation of **₹ 4,03,000/-** 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

10.12.2015
yogesh