

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.4991 of 2012

Date of Decision: 28.08.2015

Vidhya Devi and Anr.

.....Appellants

Vs.

Randheer Singh and Others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Mukesh Yadav, Advocate for the appellant.

Ms.Kaavya Jariyal, Advocate for

Mr.Tajender K.Joshi, Advocate for respondent No.3.

RITU BAHRI, J.

FAO No.4991 of 2012

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as 'the Tribunal') vide award dated 01.09.2009 on account of death of Gyarsi Lal, husband and father respectively of the claimants-appellants.

FACTS NOT IN DISPUTE

The brief facts of the case are that on 25.10.2008, Gyarsi Lal-deceased was boarding the school children at Village Ganiyar on School Bus No.HR-66-4912. Suddenly driver of the said bus started the bus without any horn and signal due to which Gyarsi Lal (deceased) could not hold the bus and fell down on the road and bus ran over him. The accident was witnessed by Jitender Kumar and other persons and driver was asked to stop the bus. The accident took place due to sole rash and negligent driving of the bus driver by starting the bus without any indication due to which Gyarsi Lal died. In this regard, FIR No.200 dated 25.10.2008 under Section 279, 304A of IPC was

registered against the driver at Police Station Ateli.

COMPENSATION ASSESSED BY THE MACT

On account of death of Gyarsi Lal, his wife Smt. Vidhya Devi and Satnarain minor son-appellants filed claim petition under Section 166 of Motor Vehicles Act, 1988, which was accepted partly by the Tribunal and a sum of Rs.5,25,000/- was awarded as compensation on account of death of Gyarsi Lal. The monthly income of the deceased was assessed at Rs.6,000/- per month. 1/3rd of the assessed monthly income was deducted towards personal and living expenses. The dependency of claimants, thus, came to Rs.48,000/-. Gyarsi Lal was presumed to be 50-55 years of age at the time of the accident and hence the multiplier of 11 was applied. In addition to it, further compensation of Rs.11,000/-, Rs.10,000/- and Rs.20,000/- towards consortium, love and affection and transport and funeral expenses respectively. Hence, the claimants were awarded total compensation of Rs.5,25,000/- along with interest @ 8% per annum from the date of filing of petition till realization.

Feeling dissatisfied with the impugned award, the claimants-appellants have 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. The deceased 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 Verma 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 is re-assessed as under:-

<i>Sr.No.</i>	<i>HEADS</i>	<i>CALCULATION</i>
(i)	Income	Rs.6,000/-
(ii)	15% of (i) to be added as future prospect	(Rs.6,000/-)+(Rs.900/-) =Rs.6,900/- per month
(iii)	1/3 rd deducted as personal expenses of the deceased	(Rs.6,900/-) -(Rs.2300/-) = Rs.4600/-
(iii)	Compensation after multiplier of 11 was applied	Rs.4600/-X 12 X 11= Rs.6,07,200/-
(iv)	Loss of love and affection (child)	Rs.1,00,000/-
(v)	Loss of consortium	Rs.1,00,000/-
(vi)	Loss of estate	Rs.1,00,000/-
(vii)	Funeral Expenses	Rs.25,000/-
	TOTAL COMPENSATION AWARDED	Rs.9,32,200/-
	Enhanced amount of compensation	(Rs.9,32,200/-) - (Rs.5,25,000/-) =Rs.4,07,200/-

The enhanced amount of compensation of **Rs.4,07,200/-** 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

28.08.2015
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