

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

FAO No.5183 of 2012 (O&M)

Date of decision: 08.10.2015

Surjit Kaur

.....Appellant

Versus

Kirpal Singh and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sanjay Gupta, Advocate,
for the appellant.

None for the respondents.

Ritu Bahri, J.

CM No.23173-CII of 2012

The application is for condonation of delay of 583 days in filing the appeal.

Claimant-appellant is widow and respondent Nos. 4 to 6 are children of deceased-Sarbpreet Singh, who had died in a road accident. After passing of the Award by the Tribunal on 18.05.2010, the appellant was not aware that an appeal could not be filed for enhancement of compensation.

Keeping in view the fact that appellant could not get proper assistance for filing the appeal in time, the present application is allowed and delay of 583 days in filing the appeal is condoned.

CM No.23174-CII of 2012

For the reasons mentioned in the application, same is allowed and delay of 77 days in re-filing of the appeal is condoned.

FAO No.5183 of 2012

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Shaheed Bhagat Singh Nagar (hereinafter referred to as 'the Tribunal') vide award dated 17.05.2010 on account of death of Sarabpreet Singh in a vehicular accident. Appellant is widow, respondent Nos.4 and 5 are sons and respondent No.6 is daughter of deceased Sarbpreet Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 31.10.2008, at about 6.30 p.m., Sarbpreet Singh was going on his motorcycle and was about to take a turn towards village, in the meantime, a Swift car bearing registration No.PB-07-T-7774, being driven by respondent No.1-Kirpal Singh in a very rash and negligent manner, came from wrong side of the road and struck against his motorcycle, as a result of which, Sarbpreet Singh fell down and received multiple injuries. Later on, he succumbed to his injuries. The said accident had occurred due to rash and negligent driving by respondent No.1. With regard to the accident, FIR No.80 dated 31.10.2008, under Sections 279/304-A was registered at Police Station, Kathgarh. Consequently, the claimant-appellant filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

Before the Tribunal, on the basis of evidence led by the parties, returned a finding that the accident had taken place on account of rash and negligent driving of car bearing registration No.PB-07-T-7774 by Kirpal Singh-respondent No.1. This finding is rightly based on the deposition of Bhupinder Singh (PW-2), who was eye witness of the accident. His statement was further corroborated by registration of FIR against respondent

No.1. Postmortem report of deceased-Sarabpreet Singh was proved on record as Ex.P3. Ultimately, the claim petition was accepted by the The tribunal and a sum of Rs.6,67,960/- was awarded as compensation on account of death of Sarabpreet Singh along with interest at the rate of 6% per annum from the date of filing of the petition till its realization. The income of the deceased was assessed at Rs.21,975/- per month by taking into account the last pay certificate (Ex.P5). Income from the agricultural land was not taken into consideration as the land had been inherited by his legal heirs. Out of Rs.21,975/-, 1/3rd amount was deducted towards personal expenses. The dependency of claimants, thus, came to Rs.16,480/- per month approximately. Out of this, Rs.10,000/- was deducted on account of family pension. Thus, the dependency came to Rs.6480/- per month, which came to Rs.77,760/- per annum. Sarabpreet Singh (deceased) was 52 years of age at the time of the accident/death and the multiplier of 11 was applied. As the deceased was to retire at the age of 58 years and after retirement he was to get pension of about 50% of his total salary, therefore, for the first six years, the compensation was assessed at Rs.4,66,560/- (Rs.77,760/- x 6). For the remaining period after retirement at the age of 58, the dependency was assessed at Rs.38,860/- and by applying the multiplier of 5, the compensation came to Rs.1,94,000/- (Rs.38,860/- x 5). In addition to it, further compensation of Rs.2000/- was awarded towards funeral expenses and Rs.5000/- as consortium to the widow. Hence the claimants were found entitled to total compensation of Rs.6,67,960/- (Rs.4,66,560/- + Rs.1,94,400/- + Rs.2000/- + Rs.5000/-).

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. It stands established that the deceased has died as a result of the accident.

Learned counsel for the appellant has referred to driving licence of the deceased, which was proved as Ex.P15 before the Tribunal. As per this document, date of birth of deceased-Sarabpreet Singh was 25.06.1954 and the date of accident is 31.10.2008.

The Hon'ble Supreme Court in a judgment delivered in **Lal Dei & others Vs. Himachal Road Transport**, 2007 (8) SCC 319, has held that family pension given to the family of deceased could not be deducted while calculating the dependency of the claimants.

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 passed in **Lal Dei's** case (supra), **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	CALCULATION
(i)	Income	Rs.21,975/- per month
(ii)	15% of (i) above to be added as future prospects (Age 52 years)	Rs.21,975 + Rs.3296 = Rs.25,271/-
(iii)	1/4 th of (ii) deducted as personal expenses of the deceased	Rs.25,271/- 6318 = Rs.18,953/-

SR. No.	HEADS	CALCULATION
(iv)	Compensation after multiplier of 11 is applied	Rs.18,953 x 12 x11 = Rs.25,01,796/-
(v)	Loss of estate	Rs.1,00,000/-
(vi)	Loss of consortium	Rs.1,00,000/-
(vii)	Loss of love and affection for minor children (respondent Nos.4 to 6)	Rs.3,00,000/- (Rs.1,00,000/- each)
(viii)	Funeral expenses	Rs.25,000/-
(ix)	TOTAL COMPENSATION AWARDED	Rs.30,26,796/-
	Enhanced amount of compensation	Rs.30,26,796 – 6,67,960/- = Rs.23,58,836/-

The enhanced amount of compensation of **Rs.23,58,836/-** 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.

08.10.2015
ajp

(RITU BAHRI)
JUDGE