

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

FAO No.5894 of 2012 (O&M)

Date of decision: 20.11.2015

Santosh and another

....Appellants

Versus

Laxmi Narayan @ Devender and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sumit Sangwan, Advocate,
for the appellants.

Mr. D.K. Prajapati, Advocate,
Mr. R.S. Madan, Advocate,
for respondent No.2.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Bhiwani (hereinafter referred to as 'the Tribunal') vide award dated 03.08.2012, on account of death of Sanjeet @ Sanjay in a motor vehicular accident which took place on 02.05.2011. Appellants are parents of deceased-Sanjeet @ Sanjay.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 02.05.2011, deceased-Sanjeet @ Sanjay along with one Dev Kumar was going from Gurgaon to Madras in a loaded container bearing registration No. HR-38-Q-2416. They stopped their vehicle near Bharat Hotel, village Bamni Khera, District Palwal for taking tea. When they were going towards the said hotel on foot for taking

tea etc., a car bearing registration No.HR-30-D-6164 being driven by Laxmi Narayan @ Devender-respondent No.1 in a rash and negligent manner and at a high speed, came from backside and hit Sanjeet alias Sanjay, as a result of which, he fell down and received multiple and grievous injuries. He became unconscious. One Dev Kumar, who witnessed the accident, had taken him to General Hospital, Palwal, from where, he was referred to Safdarjung Hospital, Delhi. However, he died there on 05.05.2011. With regard to the accident, FIR No.163 dated 05.05.2011, under Sections 279/304-A IPC was recorded at Police Station, Sadar, Palwal, against respondent No.1. Consequently, the claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had been caused on account of rash and negligent driving of offending car by Laxmi Narayan @ Devender-respondent No.1 and thus, returned the finding on Issue No.1 in favour of the claimants. This finding is rightly given on the basis of deposition of Dev Kumar (PW-3), who was an eye witness of the accident and on whose statement, FIR (Ex.P2) was registered. In the absence of adequate evidence, while assessing compensation, income of the deceased was taken as Rs.5000/- per month. Out of this, 50% amount was deducted towards personal expenses of deceased. The dependency of claimants, thus, came to Rs.2500/- per month i.e. Rs.30,000/- per annum. After taking average age of the parents of deceased, multiplier of 11 was applied. Thus, the claimants were found entitled to compensation of Rs.3,30,000/-. In addition to it, Rs.20,000/- were awarded as funeral expenses. Hence, the claimants were

found entitled to total compensation of Rs.3,50,000/- along with interest @ 6% per annum from the date of filing of the 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. 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, *New India Assurance Company Limited vs Gopali and others*, 2012 (12) SCC 198, *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, as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.5,000/- per month
(ii)	50% of (i) above to be added as future prospects	5000 + 2500 = Rs.7500/-
(iii)	50% of (ii) above is deducted as personal expenses of the deceased	7500 – 3750 = Rs.3750/-
(iv)	Compensation after multiplier of 18 is applied (Age 24 years)	Rs.3750/- x 12 x 18 = Rs.8,10,000/-
(v)	Loss of love and affection for the parents-appellants	Rs.1,00,000/- (Rs.50,000/- each)
(vi)	Funeral expenses	Rs.25,000/-
(vii)	TOTAL COMPENSATION AWARDED	Rs.9,35,000/-

(viii)	Enhanced amount of compensation	Rs.9,35,000 – 3,50,000 = Rs.5,85,000/-
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The enhanced amount of compensation of **Rs.5,85,000/-** 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

20.11.2015
ajp