

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

FAO No.5919 of 2012

Date of Order: 16.09.2015

Smt. Kuldeep Kaur and Ors

....Appellants

Versus

Gurdev Singh and Ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE RITU BAHRI

Present: Mr. Ashwani Arora, Advocate for the appellants.

Mr. Subhash Goyal, Advocate for respondent No.3.

RITU BAHRI, J (ORAL)

Claimants-appellants have come up in appeal against the award dated 06.9.2012 passed by the learned Motor Accident Claims Tribunal, Moga whereby they have been awarded a compensation of Rs.10,90,000/- on account of death of Prem Singh, who died in a road accident on 29.5.2011.

FACTS NOT IN DISPUTE

Brief facts of the case are that the deceased Prem Singh was 57 years of age at the time of accident and he was an employee of Punjab State Electricity Board, Moga. He was drawing salary of Rs.40,000/- per month. On 29.05.2011 at about 7.30 p.m, deceased Prem Singh was going from his Village Chuhar Chak to his office at Ajitwal on a cycle on the left side of the road. He was being followed by his son Sh. Ramanjeet Singh on a

separate cycle. When they reached in front of Grain Market Ajitwal, car bearing registration No.PB 29 J 3944 being driven by respondent No.1-Gurdev Singh came from the side of Jagraon in a rash and negligent manner and after overtaking Ramanjeet Singh, struck against the cycle of deceased from behind. Due to the hit from behind, Prem Singh fell down from the cycle, received serious injuries and died at the spot. The accident took place due to rash and negligent driving of the Car bearing registration No.PB 29 J 3944 (hereinafter to be referred as “offending vehicle”) being driven by Gurdev Singh-respondent No.1. On the basis of the statement made by Ramanjeet Singh, a criminal case was registered against said Gurdev Singh. Consequently, the claimants-appellants filed a claim petition before the Tribunal.

Learned Tribunal after framing issues has returned the findings that the accident was caused due to rash and negligent driving of said Gurdev Singh-respondent No.1 while driving the offending car. The finding is based upon the deposition of PW3-Ramanjeet Singh/eye witness of the occurrence, who tendered his affidavit Ex.PW3/A stating that the accident had taken place due to rash and negligent driving of respondent No.1-Gurdev Singh as a result of which deceased Prem Singh received serious injuries and succumbed to death. This witness has also proved on record attested copy of FIR Ex.P2, copy of post mortem report (Ex.P3) and copy of site plan as mark A. Respondent No.1-Gurdev Singh (driver of the offending vehicle) stepped into witness box and in his cross examination, he admitted that a criminal case bearing FIR No.42 dated 29.5.2011 is pending against him. Findings on issue No.1 in appeal, in the opinion of this Court, do not warrant any interference.

Deceased was 57 years of age as per post mortem report (Ex.P.3). He was employed in Punjab State Electricity Board and was drawing a monthly salary of Rs.41,009/- and net salary paid to him was Rs.28,732/-. Taking the net salary into consideration and applying 1/3rd cut, his annual monthly dependency, which was taken to be Rs.15,000/- per month, was recorded as Rs.1,20,000/-. After applying the multiplier of 9, total dependency came to be Rs.10,80,000/-. Claimant/appellant No.1 was held entitled to Rs.5,000/- as loss of consortium being wife of the deceased whereas Rs.5,000/- was awarded towards funeral expenses. Thus, the total compensation as awarded to be paid to the appellants-claimants by the respondents jointly and severally is as under:

Feeling dissatisfied with the impugned award, the claimants-appellants have preferred the present appeal seeking enhancement of compensation.

REASSESSED COMPENSATION

I have heard learned counsel for the parties and perused the case file.

Learned counsel for the appellant has also worked out total income after excluding the income tax as per the income tax slab and contends that apart from income tax no further deductions could be made.

Learned counsel for the respondent by referring to judgment of Hon'ble Supreme Court reported as Rajesh and Others Vs. Rajbir Singh and Others 2013 ACJ 1403 contends that in paragraph 12 of this judgment, 15% future prospects have been extended only to self-employed or on fixed wages.

However, a perusal of judgment shows that the increase is restricted to 15% in case of self-employed and daily wager on account of lack of evidence whereas in the present case, deceased was a government employee and in view of the judgment of Hon'ble Supreme Court, future prospects could not be denied.

After deducting income tax, his total annual income should be taken as Rs.5,14,148/-. Future increase @ 15% is admissible in view of judgment of Hon'ble Supreme Court reported as 2011 Volume ACJ 743.

Keeping in view the facts and circumstances of the present case and to meet the ends of justice, the compensation is hereby reassessed in view of the judgments of **Vimal Kanwar and Others Vs. Kishore Dan and others 2013 (2) RCR (Civil) 945, Asha Verman and Others Vs. Maharaj Singh and Others, 2015 (2) RCR (Civil) 520, Sarla Vedrma 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.** Therefore, Rs.1,00,000/- is awarded to claimant No.1 being wife whereas Rs.1,00,000/- each is awarded to both claimant Nos.2 & 3. Further a sum of Rs.25,000/- is awarded towards funeral expenses. Accordingly, the compensation is re-assessed as under:

<i>Income</i>	<i>Rs.41,009/- per month (Gross)</i> <i>Rs.41009 x 12 = 4,92,108/-</i>
Future prospects @ 15%	15% of Rs.4,92,108/- =Rs.73,816/-
Total Income	Rs.4,92,108/- + 73,816/- = Rs.5,65,924/-
Income after paying Tax	Rs.5,14,148/-
1/3 rd deducted as personal expenses of the deceased	5,14,148/- minus 1/3 rd deduction= Rs.3,42,766/-
Compensation after multiplier of 9 is applied	Rs.3,42,766/- x 9 = Rs.3084894/-
Loss of Consortium	Rs.1,00,000/-
Loss of Estate	Rs.1,00,000/-
Loss of love and affection to children	Rs.1,00,000/- (Rs.50,000/- each)

<i>Income</i>	<i>Rs.41,009/- per month (Gross)</i> <i>Rs.41009 x 12 = 4,92,108/-</i>
Funeral expenses	Rs.25,000/-
Enhanced amount of compensation	Rs.3409894/- minus Rs.10,90,000/-= Rs.2319894

Resultantly, the enhanced amount of compensation of Rs.2319894/- 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.**

Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

September 16, 2015
manoj

(RITU BAHRI)
JUDGE

