

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

FAO No.6084 of 2012 (O&M)

Date of decision : 10.09.2015

Kanchan Bala & others

...Appellants

versus

Gurvinder Singh & others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Vishal Garg, Advocate
for the appellants.

Mr. Sukhdarshan Singh, Advocate
for respondent No.3.

RITU BAHRI, J (Oral)

CM No.28640-CII of 2012

There is a delay of 32 days in filing the appeal.

For the reasons mentioned in the application, the same is
allowed and the delay of 32 days in filing the appeal is condoned.

CM stands disposed of.

FAO No.6084 of 2012

The appellants/claimants have come up in appeal against the award of the Motor Accidents Claims Tribunal, Chandigarh (hereinafter referred to as “the Tribunal”) dated 16.04.2012, whereby the Tribunal has awarded a compensation of Rs.21,62,291/- to the claimants on account of death of Vinod Kumar, who died in a road accident which took place on 26.03.2009.

Facts not in dispute are that on 26.03.2009, at about 6.45
a.m., the deceased Vinod Kumar was coming from Luxmi Narain

Mandir, Sector-20, Chandigarh, on his scooter bearing registration No.CH-03-8224. When, he was crossing the light point of Sector 20-21, Chandigarh, respondent No.1 who was driving Swaraj Mazda bearing No.CH-03-W-7518 and was coming from the side of Sector 18/19. 20/21 roundabout towards Sector 20-21 light point, hit the deceased on the right side rashly and negligently, at high speed after jumping red light. An FIR No.48 dated 28.03.2009 under Sections 279/337/304-A IPC was registered in the Police Station, Sector 19, Chandigarh. The deceased received serious injuries and most of his ribs were broken due to which his lungs were badly damaged. His left hand was also fractured. He was immediately taken to GMCH, Sector 32, Chandigarh in a gypsy. He remained admitted in the hospital for 22 days i.e. 26.03.2009 to 16.04.2009. On 17.04.2009, he was taken to Fortis Multi Speciality Hospital, Mohali, as his condition deteriorated in the night of 16.04.2009. Thereafter, he was shifted to Sri Guru Harikrishan Sahib Multi Speciality Hospital, Sohana, Sector 77, Mohali on 27.04.2009. He expired on 10.05.2009 due to injuries received in the motor accident. A sum of Rs.7,26,000/- was spent on his treatment from the date of accident till the date of his death.

On account of death of Vinod Kumar, the claimants filed claim petition under Section 166 of the Motor Vehicles Act, 1988. The Tribunal after going through the evidence on record, has returned finding on issue No.1 in favour of the claimants. The statement of eye witness Rajiv Behal PW1 corroborated with the facts stated in the FIR No.48 dated 28.03.2009 Ex.P1. The finding does not require any

interference that the accident took place on account of rash and negligent driving of respondent No.1. Ex.P6/A and Ex.P7 from the hospital show that the patient had suffered multiple fracture ribs on the right side resulting in injuries to the lung. The injuries mentioned in the post mortem report also correspondent to the case summary Ex.P6/A and P7. After going through the evidence, the Tribunal has accepted the claim petition and awarded a sum of Rs.21,62,691/- as compensation to the claimants on account of death of Vinod Kumar, after assessing the income of the deceased Vinod Kumar as Rs.1,68,000/- per annum. 1/3rd amount was deducted towards personal expenses. The dependency of claimants, thus, came to Rs.1,12,000/- per annum. Vinod Kumar was more than 40 years of age at the time of accident and the multiplier of 13 was applied. Thus, the claimants were found entitled to compensation of Rs.14,56,000/- (1,12,000/- x 13). In addition to it, medical expenses of Rs.6,86,691/- has also been awarded. Further a compensation of Rs.5,000/- for loss of estate, Rs.5,000/- as funeral expenses and Rs.10,000/- towards loss of consortium was also granted. Hence the claimants were found entitled to total compensation of **Rs.21,62,691/-**.

Feeling dissatisfied with the impugned award, the appellants/claimants have preferred the present appeal.

I have heard 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 Verman & ors. Vs. Maharaj Singh & ors., 2015 (2) RCR (Civil) 520, Sarla Verma & ors. Vs. Delhi Transport Corporation & anr., 2009 (3) RCR (Civil) Page 77, Rajesh & ors. Vs. Rajbir Singh & ors., 2013 (9) SCC 54 and Munna Lal Jain & anr. Vs. Vipin Kumar Sharma & ors., 2015 (3) Recent Apex Judgments*

459. Accordingly, the compensation is reassessed as under:-

Sr. No.	Heads	Calculation
(i)	Annual Income	Rs.1,68,000/-
(ii)	30% of (i) added for future prospects	(Rs.1,68,000/-) + (Rs.50,400/-) = Rs.2,18,400/-
(iii)	Dependency of the claimant after deducting 1/3 rd of (ii) towards personal expenses of the deceased	(Rs.2,18,400/-) – (Rs.72,800/-) = Rs.1,45,600/-
(iv)	Compensation after multiplier of 13 is applied	(Rs.1,45,600/- x 13) = Rs.18,92,800/-
(v)	Loss of estate	Rs.1,00,000/-
(vi)	Loss of consortium	Rs.1,00,000/-
(vii)	Loss of love and affection to the mother	Rs.50,000/-
(viii)	Loss of love and affection to the children	Rs.3,00,000/- (Rs.1,00,000/- each to the children)
(ix)	Medical expenses	Rs.6,86,691/-
(x)	Funeral expenses	Rs.25,000/-
(xi)	Total Compensation awarded [(iv)+(v)+(vi)+(vii)+(viii)+(ix)+(x)]	Rs.31,54,491/-
(xii)	Enhanced amount of compensation	(Rs.31,54,491/-)-(Rs.21,62,691/-) = Rs.9,91,800/-

The enhanced amount of compensation of **Rs.9,91,800/-** 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 realisation, in view of the judgment of Hon'ble

Supreme Court in the case of *Kumari Kiran through her father Harinarayan Vs. Sajjan Singh & ors., 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.

10.09.2015
Vinay

(RITU BAHRI)
JUDGE