

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

**FAO No.6163 of 2012 (O&M)
Date of decision: 21.09.2015**

Kulvinder Kaur and others

....Appellants

Versus

Sikander Lal and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ishaan Cooner, Advocate
for Mr. J.S. Cooner, Advocate
for the appellants.

Ms. Rajni, Advocate
for respondent No.1.

Mr. R.C. Kapoor, Advocate
for respondent No.3.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Ambala (hereinafter referred to as 'the Tribunal') vide award dated 27.07.2012, on account of death of Baljinder Singh in a motor vehicular accident.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 11.10.2010, deceased along with his brother Balihar Singh was going from his village

Shahpur to Ambala Cantonment in connection with some domestic work on motorcycle bearing registration No.HR-01-X-2205 being driven by Baljinder Singh (since deceased) on correct left side of the road at a moderate speed. When at about 10:00 a.m., they reached on the GT road, truck bearing registration No.HR-38-D-3577 driven by the respondent No.1 at a very high speed, rashly and negligently came from behind without blowing any horn and hit their motorcycle, due to which they fell down and suffered multiple injuries. Baljinder Singh was taken to Civil Hospital, Ambala cantonment where he died. The accident was witnessed by Balihar Singh brother of the deceased.

In this regard, FIR No.348 of 2010 under Sections 279, 337 and 304-A of the Indian Penal Code, 1860, in respect of the accident in question was got registered at Police Station Parao. Consequently, the claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

The Tribunal has rightly returned the finding on Issue No.1 in favour of the claimants No.1 to 3, after accepting the deposition of PW-2 Balihar Singh(brother of the deceased) and PW-3 Sanjeev Kumar, Criminal Ahlmad of the Court, and produced the copies of FIR (Ex.P-2) and Postmortem Report (Ex.P3) that Baljinder Singh died due to injuries suffered in the accident caused on 11.10.2010.

Ultimately, on the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident was caused on account of rash and negligent driving of truck bearing registration No.HR-38D-3577 by Harnek Singh-respondent. The claim petition was accepted by the tribunal and a sum of Rs.6,88,000/- was awarded as compensation on account of death of Baljinder Singh along with future interest at the rate of 9% per annum from the date of filing of the petition till its realization.

The monthly income of the deceased was assessed at Rs.4,500/- per month, out of which 1/3rd amount was deducted towards personal expenses. The dependency of claimants, thus, came to Rs.3,000/- per month, which came to Rs.36,000/- per annum. Baljinder Singh (deceased) was 24 years of age at the time of the accident/death and the multiplier of 18 was applied. Thus, the claimants were found entitled to compensation of Rs.6,48,000/-. In addition to it, further compensation of Rs.10,000/- was awarded towards transportation of dead body, funeral expenses and last rites of the deceased, Rs.10,000/- was allowed in respect of consortium, Rs.10,000/- was allowed towards loss of estate and Rs.10,000/- was awarded towards non-pecuniary damages. Hence, the claimants were found entitled to total compensation of Rs.6,88,000/-.

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

REASSESSED COMPENSATION

Learned counsel for the respondent No.3 has argued that the matter regarding future prospects is pending before the Larger Bench in Hon'ble Apex Court in “**National Insurance Company Limited Vs Pushpa and others**” vide SLP No.8058/2014, and payment beyond Rs.20,00,000/- stands stayed.

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, *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	CALCULATIONS
(i)	Annual Income	Rs.54,000/-
(ii)	50% of (i) above to be added as future prospects (Age 24 years)	(Rs.54,000/-) + (Rs.27,000/-) = Rs.81,000/-
(iii)	Dependency of the claimant after deducting 1/3rd of (ii) towards personal expenses of the deceased	(Rs.81,000/-) - (Rs.27,000) = Rs.54,000/-

(iv)	Compensation after multiplier of 18 is applied	(Rs.54,000/- x 18) =Rs.9,72,000/-
(v)	Loss of consortium	Rs.1,00,000/-
(v)	Loss of estate	Rs.1,00,000/-
(vi)	Loss of love and affection for minor children	Rs.1,00,000/-
(vi)	Loss of love and affection for parents	Rs.1,00,000/- (Rs.50,000/- each)
(vii)	Funeral expenses	Rs.25,000/-
(viii)	TOTAL COMPENSATION AWARDED	Rs.13,97,000/-
(ix)	Enhanced amount of compensation	(Rs.13,97,000) – (Rs.6,88,000/-) =Rs.7,09,000/-

The enhanced amount of compensation of **Rs.7,09,000/-** 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

21.09.2015
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