

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO No. 6164 of 2012

Date of decision : August 11, 2015

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Kailash Chander and others

.....Appellants

Versus

Gurjit Singh and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Sanjay Jain, Advocate for the appellants.

Ms. Deepa Jain, Advocate for

Mr. Malkeet Singh, Advocate for respondents no. 1 & 2.

Mr. Lalit Garg, Advocate for respondent no. 3.

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1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

RITU BAHRI, J

The appellants-claimants have come up in appeal against the award passed by the Motor Accident Claims Tribunal, Ambala (hereinafter referred to as 'the Tribunal') dated 26.7.2012. The appellants-claimants are seeking enhancement of amount awarded by the Tribunal.

FACTS NOT IN DISPUTE

Madhu Dogra wife of Kailash Chander and mother of Amit

Kumar and Ms. Shweta died in a road accident caused by a bus

bearing registration No. HR-37B-7668 which was being driven by respondent no.1. Driver-respondent no.1 is facing a trial in FIR No. 270 dated 15.7.2011 under Sections 279 and 304-A of the Indian Penal Code, 1860 registered at Police Station Ambala City. Copy of FIR is Ex. P-1, copy of the challan is Ex. P-30 and the mechanical report of bus is Ex. P-32. On 15.7.2011, Madhu Dogra was driving Activa Scooter which was hit by the bus from the backside due to which she fell down and suffered multiple injuries. She was taken to Civil Hospital, Ambala City where she was declared dead. Crime Detail Form is Ex. P-31. As per the Post mortem report Ex. P-36, Madhu Dogra died due to injuries suffered in the accident caused on 15.7.2001 by rash and negligent driving of bus bearing registration No. HR-37-B -7668 by respondent no.1.

COMPENSATION ASSESSED BY THE MACT

All the appellants-claimants were dependent upon the deceased Madhu Dogra. She was working as the authroised agent of the LIC of India and National Savings Organization/Post Office DAV College Branch, Ambala city and was earning more than Rs. 2,50,000/- per annum as commission. As per her income tax returns, the average income per month was worked out at Rs.10,000/- per month at the time of her death. 1/3rd amount was deducted towards personal expenses from an amount of Rs.10,000/- and the dependency of the claimants came to Rs. 80,000/- per annum. She was 53 years of age and a multiplier of 11 was applied. Compensation was assessed at Rs.8,80,000/-. An amount of

Rs.10,000 towards funeral expenses, Rs. 10,000/- towards loss of consortium, Rs.10,000 towards loss of estate and Rs.10,000 towards non-pecuniary damages was also awarded. Thus, a total compensation of Rs.9,20,000/- was awarded by the Tribunal

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. The deceased died as a result of the accident

While calculating the income per month, average of all the five income tax returns for the assessment years 2007-08 till 2011-12 has been taken. The respondents did not dispute the documents with regard to the income of the deceased as well as the income tax returns. The income of the deceased as LIC agent was much more than Rs. 10,000/- per month. Even in the income tax returns, there is consistent increase in income since 2006-07 till 2011-12. In the given set of circumstances, the average of last three income tax returns would enable to calculate the correct income of the deceased. On the basis of the average of last three income tax returns, per month income of the deceased comes to Rs. 13,000/-.

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:-

<i>Sr. No.</i>	<i>HEADS</i>	<i>CALCULATION</i>
(i)	Salary	Rs. 13,000/- per month
(ii)	15 % of (i) above to be added as future prospects	(Rs.13000+Rs.1950/-)= Rs.14,950/- per month
(iii)	1/3 rd of (ii) deducted as personal expenses of the deceased	(Rs.14950/-Rs.4983)= Rs.9967/-
(iv)	Compensation after multiplier of 11 is applied	(Rs.9967x12x11) Rs.13,15,644/-
(v)	Loss of consortium	Rs.1,00,000/-
(vi)	Loss of estate	Rs. 1,00,000/-
(vii)	Loss of love and affection (Rs.1,00,000/- each to children)	Rs.2,00,000/-
(viii)	Funeral expenses	Rs.25,000/-
	TOTAL COMPENSATION AWARDED	Rs. 17,40,644/-
	ENHANCED AMOUNT OF COMPENSATION	(Rs.17,40,644/-)-(Rs.9,20,000/-) =Rs.8,20,644/-

The enhanced amount of compensation of **Rs.8,20,644/-** shall be paid by the respondents 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.

August 11, 2015
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(RITU BAHRI)
JUDGE