

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

FAO No.702 of 2012 (O&M)

Date of decision: 26.11.2015

Rajbir and others

.....Appellants

Versus

Babli alias Sunil and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. S.K. Yadav, Advocate,
for the appellants.

Mr. Suvir Dewan, Advocate,
for respondent No.3-Insurance Company.

Ritu Bahri, J.

CM No.3301-CII of 2012

For the reasons mentioned in the application, same is allowed and
delay of 115 days in filing of the appeal is condoned.

FAO No.702 of 2012

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
07.03.2011 on account of death of Parveen Kumar in a vehicular accident,
which took place on 14.09.2008. Appellant No.1 is father and appellant
Nos.2 & 3 are brothers of deceased Parveen Kumar.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 14.09.2008, Parveen Kumar
along with his cousin namely Lalit, was going on a bicycle. At about 8.00
P.M., when they reached at Rohtak bye pass, Charkhi-Dadri, in the

meantime, a truck bearing registration No. HR-36-HAS-0168 being driven by Babli alias Sunil-respondent No.1 in a rash and negligent manner came from Dadri side and hit the bicycle of Parveen Kumar from behind, as a result of which, both the occupants of bicycle fell down on the road. Parveen Kumar received multiple/serious injuries and died at the spot. After the accident, respondent No.1 fled away from the spot. With regard to the accident, FIR No.142 dated 14.09.2008, under Sections 279/304-A IPC was registered at Police Station, City, Dadri. 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 taken place on account of rash and negligent driving of truck bearing registration No.HR-36GA-0168 by Babli @ Sunil-respondent No.1. This finding is based on the deposition of Lalit Kumar (PW-1), who was an eye witness of the accident and on whose statement, FIR No.142 dated 14.09.2008, under Sections 279/304-A IPC was registered at Police Station, City, Dadri. Ultimately, the claim petition was accepted by the Tribunal. In the absence of any proof, the income of the deceased was taken to be Rs.3600/- per month as daily wager, out of which, Rs.1800 i.e. $\frac{1}{2}$, was deducted on account of his personal expenses. The dependency of claimants, thus, came to Rs.1800/- per month. Since the deceased was 18½ years of age at the time of his death, therefore, multiplier of 15 was applied. Thus, the compensation came to be Rs.3,24,000/- (1800/- x 12 x 15). In addition to it, Rs.2000/- were awarded as funeral expenses and Rs.2500/- on account of loss of estate. Accordingly, total compensation of Rs.3,28,500/- was awarded in favour of the claimant,

which was to be paid along with interest at the rate of 6% per annum from the date of filing of the petition till its 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 passed in *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	CALCULATION
(i)	Income	Rs.3600/-
(ii)	50% of (i) above to be added as future prospects	Rs.3600 + Rs.1800 = Rs.5400/-
(iii)	50% of (ii) deducted as personal expenses of the deceased	Rs.5400 – 2700 = Rs.2700/-
(iv)	Compensation after multiplier of 18 is applied	Rs.2700 x 12 x 18 = Rs.5,83,200/-
(v)	Loss of love and affection for the appellants	Rs.1,00,000/-
(vi)	Funeral expenses	Rs.25,000/-
(xii)	TOTAL COMPENSATION AWARDED	Rs.7,08,200/-
	Enhanced amount of compensation	Rs.7,08,200 – 3,28,500 = Rs.3,79,700/-

The enhanced amount of compensation of **Rs.3,79,700/-** 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.

26.11.2015
ajp

(RITU BAHRI)
JUDGE