

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

FAO No.1769 of 2013 (O&M)

Date of decision: 01.10.2015

Jasmero

....Appellant

Versus

Sunil Kumar and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr.D.K. Prajapati, Advocate
for Mr. R.S. Madan, Advocate
for the appellant.

Mr. Neeraj Khanna, Advocate
for respondent No.3.

RITU BAHRI J. (Oral)

CM No.8906-CII of 2013

For the grounds mentioned in the application, the same is
allowed and the delay of 35 days in filing the appeal stands
condoned.

MAIN CASE

This appeal has been filed by the claimant-appellant
seeking enhancement of compensation awarded by Motor
Accident Claims Tribunal, Yamuna Nagar at Jagadhari
(hereinafter referred to as 'the Tribunal') vide award dated
08.09.2012, on account of death of Jaswinder @ Sukhwinder @
Kala, in a motor vehicular accident which took place on
14.12.2010.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 14.12.2010 at about 09:00/09:15 p.m., near Nakurion Ka Farm just ahead of village Ahluwala, Tehsil Jagadhari, District Yamuna Nagar, respondent No.1-Sunil Kumar, while driving truck bearing registration No.HR-41-1122, owned by respondent No.2, had hit the bicycle from behind on which Jaswinder @ Sukhwinder @ Kala (deceased), Balwant Singh and Gurmail Singh were returning to their village Pheruwala from Jagadhari.

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 was caused on account of rash and negligent driving by Sunil Kumar-respondent No.2 and thus, the Tribunal has returned the finding on Issue No.1 in favour of the claimant-appellant.

The claim petition was accepted by the Tribunal and a sum of Rs.2,44,900/- was awarded as compensation on account of death of Jaswinder @ Sukhwinder @ Kala along with future interest at the rate of 7.5% per annum from the date of filing of the petition till its realization.

The Labour Commissioner, Haryana vide letter bearing No.43985-44114 dated 16.08.2010, sent to the Additional Labour

Commissioner, Gurgaon, and others has fixed the minimum wages or an unskilled labourer as Rs.4348.21/- per month. Thus, in view of the said letter, the monthly income of the deceased was assessed at Rs.4,348.21/- (rounded off to Rs.4,350/-per month), out of which 50% amount was deducted towards personal expenses as the deceased was a bachelor. The dependency of claimant, thus, came to Rs.2,175/- per month, which came to Rs.26,100/- per annum. Jaswinder @ Sukhwinder @ Kala (deceased) was 22 years of age at the time of the accident/death and the multiplier of 9 was applied. Thus, the claimant was found entitled to compensation of Rs.2,34,900/-. In addition to it, further compensation of Rs.5,000/- was awarded towards loss of estate and Rs.5,000/- was awarded towards funeral expenses. Hence, the claimant was found entitled to total compensation of Rs.2,44,900/-.

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 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.4,350/- x 12)	Rs.52,200/-
(ii)	50% of (i) above to be added as future prospects (Age 22 years)	(Rs.52,200/-) + (Rs.26,100/-) = Rs.78,300/-
(iii)	Dependency of the claimant after deducting 50% of (ii) towards personal expenses of the deceased	(Rs.78,300/-) - (Rs.39,150) = Rs.39,150/-
(iv)	Compensation after multiplier of 18 is applied	(Rs.39,150/- x 18) =Rs.7,04,700/-
(vi)	Loss of love and affection to mother	Rs.50,000/-
(vii)	Loss of estate	Rs.1,00,000/-
(viii)	Funeral expenses	Rs.25,000/-
(ix)	TOTAL COMPENSATION TO BE AWARDED	Rs.8,79,700/-
(x)	Enhanced amount of compensation	(Rs.8,79,700/-) – (Rs.2,44,900/-) =Rs.6,34,800/-

The enhanced amount of compensation of **Rs.6,34,800/-** 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 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. However, the insurance company has right to recover the amount from the owner and driver as per the decision of FAO No.5986 of 2012.

(RITU BAHRI)
JUDGE

01.10.2015

yakub