

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

**X-OBJC No.17102-CII of 2013 IN/AND
FAO No.1823 of 2013 (O&M)
Date of decision: 21.09.2015**

Shri Ram General Insurance Company Limited

....Appellant

Versus

Ravinder Singh Parmar and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Arun Sharma, Advocate
for Mr. T.K. Joshi, Advocate
for the appellant.

Mr. Jamshed Ahmed, Advocate
for the respondents No.1 and 2/cross-objectors.

Mr. Rimple Saini, Advocate
for respondents No.3 and 4.

RITU BAHRI J. (Oral)

CM No.9081-CII of 2013

For the grounds mentioned in the application, the same
is allowed and the delay of 111 days in filing the appeals stands
condoned.

MAIN CASE

This is an appeal filed by the insurance company
against the award dated 17.09.2012, passed by Sh. Mahender

Singh, Motor Accident Claims Tribunal, Gurgaon, vide which the claim petition was partly accepted and a sum of Rs.22,35,080/- was allowed, on account of death of Sumit Koundal in a motor vehicular accident which took place on 19.11.2010.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 19.11.2010, Sumit Koundal (deceased) son of claimants was going towards Delhi by riding on a motorcycle bearing registration No.HR-26-BA-7332. At about 05:30 a.m. when he reached at Iffco Chowk, then a truck bearing registration No.HR-55B-9333 driven by respondent No.1 in a rash and negligent manner came from the back side and hit the motorcycle. As a result of impact, Sumit Koundal fell on the road and was run over under the tyre of the offending truck. He died at the spot. The driver of the offending truck stopped his vehicle at some distance and thereafter fled away from the spot, leaving behind the vehicle. The dead body of the deceased was brought to Civil Hospital, Gurgaon. The occurrence was witnessed by his (deceased) cousin Narender Patel who was also coming towards Delhi by his own motorcycle. In this regard, FIR No.214 dated 19.11.2010, under Sections 279, 304-A IPC at Police Station Sector-18, Gurgaon, in respect of the accident in question was got registered. Consequently, the claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

On the basis of the evidence led by the parties, the Tribunal has returned the finding on Issue No.1 in favour of the claimants-respondents.

Further, in order to prove the salary of the deceased, the claimants-respondents produced DR. Sanjog Chand, Manager, Genpact as PW-4, who has proved the photocopy of appointment letter Ex.P6 and pay slip as Ex.P7 for the month of October, 2010. He further testified that as per the record, his (deceased) fixed salary was Rs.2,24,400/- and an amount of Rs.55,000/- was dependent upon his annual performance. The said evidence got un rebutted and unchallenged, so it is held that the deceased was drawing the salary of Rs.2,34,400/-.

The claim petition was accepted by the tribunal and a sum of Rs.22,35,080/- was awarded as compensation on account of death of Sumit Koundal along with future interest at the rate of 9% per annum from the date of filing of the petition till its realization.

The annual income of the deceased was assessed at Rs.2,34,400/- per annum. 50% amount towards future prospects has been added and thereafter, the annual income comes to Rs.3,51,600/-. Out of which 30% amount was deducted towards income-tax and surcharge and the income comes to Rs.2,46,120/-, 50% amount was deducted in respect of personal expenses. The

dependency of claimants, thus, came to Rs.1,23,060/- per annum.

Sumit Koundal (deceased) was 23 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.22,15,080/-.

In addition to it, further compensation of Rs.20,000/- was awarded towards transportation and last rites of the deceased. Hence, the claimants were found entitled to total compensation of Rs.22,35,080/-.

Feeling dissatisfied with the impugned award, the appellant-Insurance Company has 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.

The amount of compensation has rightly been assessed by the Tribunal. 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.2,34,400/-
(ii)	50% of (i) above to be added as future prospects	(Rs.2,34,400/-) + (Rs.1,17,200/-) = Rs.3,51,600/-
(iii)	30% deduction of (ii) towards income-tax and surcharge	(Rs.3,51,600/-) - (Rs.1,05,480/-) = Rs.2,46,120/-
(iv)	Dependency of the claimant after deducting 50% of (iii) towards personal expenses of the deceased	(Rs.2,46,120/-) - (Rs.1,23,060/-) = Rs.1,23,060/-
(v)	Compensation after multiplier of 18 (Rs.1,23,060 x 18)	Rs.22,15,080/-
(vi)	Loss of love and affection for parents	Rs.1,00,000/- (Rs.50,000/- each)
(vii)	Loss of estate	Rs.1,00,000/-
(viii)	TOTAL COMPENSATION AWARDED	Rs.24,15,080/-
(ix)	Enhanced amount of compensation	(Rs.24,15,080/-) – (Rs.22,35,080/-) =Rs.1,80,000/-

The enhanced amount of compensation of **Rs.1,80,000/-** 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 cross-objections are allowed and the award stands modified to the above extent.

The present appeal filed by the appellant-Insurance company is hereby dismissed.

**(RITU BAHRI)
JUDGE**

21.09.2015
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