

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

**F.A.O No. 2124 of 2013
Date of decision:- 16.11.2015**

Nirmal Kaur

...Appellant

Versus

Bal Kishan and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- None for the appellant

Mr. Sanjeev Kodan, Advocate
for respondent No. 2

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RITU BAHRI J. (Oral)

1. The present appeal has been preferred by the claimant-appellant (for short 'the appellant'), against award dated 01.11.2012 passed by the learned Motor Accident Claims Tribunal, Yamuna Nagar (for short, 'the Tribunal') to the tune of Rs.4,06,410/-.

FACTS NOT IN DISPUTE

2. On 25.12.2010, Surender Kumar has left from Balkana to Radaur on his motor cycle make Platina bearing registration No. HR-

02-S-9357 with milk and ahead of him, Happy alias Harpreet (since deceased) along with Shewat Komal were also going on their motorcycle bearing registration NO. HR-02S-7998, being driven by Harpreet Singh. In the meanwhile, a tractor trolley bearing registration No. HR-02T-8630 driven by respondent No. 1 came in a rash and negligent manner and applied sudden brakes, as a result of which, Happy @ Harpreet Singh could not control the motorcycle and struck in the tractor trolley from its rear side. He received multiple and grievous injuries and was thus taken to CHC Radaur from where he was referred to Civil Hospital, Yamuna Nagar. On the statement of Surender Kumar, F.I.R was registered in this regard.

3. The learned counsel for the claimant-appellant contends that the compensation awarded by the learned Tribunal is on the lower side and deserves to be enhanced, in view of the judgment ***'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', Asha Verman and others vs. Maharaj Singh and others, 2015(2) RCR (Civil) 520 and Kalpanaraj and others v. Tamil Nadu State Transport Corporation, 2015(2) SCC (Civil) 193.***

4. On the other hand, the learned counsel for the respondent has vehemently opposed the present appeal.

5. I have heard learned counsel for the parties and perused the record.

COMPENSATION ASSESSED BY MACT

6. The learned tribunal took the income of the deceased at Rs.4349/- as the claimant has failed to produce any documentary evidence that the deceased was earning Rs.10,000/- per month and his annual dependency comes to Rs.52188 and 50% was deducted towards personal expenses and the amount comes to Rs.26094/-. The multiplier of 15 was applied and Rs.5000/- was awarded towards funeral expenses and Rs. 5000/- on account of loss of estate and Rs.5000/- on account of pecuniary damages. The total compensation of Rs.4,06,410/- was awarded to the claimants.

RE-ASSESSED COMPENSATION

7. It is not in dispute that the offending vehicle was fully insured from the Insurance company.

8. Following the ratio of law laid down by Hon'ble the Supreme Court in the above mentioned judgments, the compensation has to be re-assessed as follows:-

Sr. No.	Heads	Calculations
(i)	Salary	Rs.4349/- per month
(ii)	50% of (i) above to be added as future prospects=	Rs.4349+Rs.2174=Rs.6523/- per month
(iii)	1/2 of (ii) deducted as personal expenses of the deceased=	Rs.6523-Rs.3261=Rs.3261 per month
(iv)	Compensation after multiplier of 18 is applied	Rs.3261 X 12 X 18= Rs.7,04,376/-
(v)	Loss of love and affection to parents	Rs.1,00,000 (Rs.50,000/- each)
(vi)	Funeral charges	Rs.25,000/-
(vii)	Total Compensation awarded	8,29,376/-
	Enhanced amount of compensation	Rs.8,29,376-Rs.4,06,410=Rs.4,22,966/- rounded off to Rs.4,23,000/-

9. Resultantly, the enhanced amount of compensation of Rs.4,23,000/- shall be payable within a period of forty five days 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 a 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.

10. With the aforesaid modification in the impugned award, the appeal is allowed to the above extent.

16.11.2015

G Arora

(RITU BAHRI)
JUDGE