

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO No. 2311 of 2013

Date of decision : November 20, 2015

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Jasvir Kaur and another

.....Appellants

Versus

Budh Singh and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Pankaj Katia, Advocate for the appellants.
Mr. Paul S. Saini, 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

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Bathinda (hereinafter referred to as 'the Tribunal') in claim petition **MACT No. 96 of 22.11.2011** filed under Section 163-A of the Motor Vehicle Act, 1988 vide award dated 24.8.2013 on account of death of Gurpreet Singh, son of the claimants-appellants.

FACTS NOT IN DISPUTE

The brief facts of the case are that on 9.10.2011, Gurpreet Singh being cleaner/Conductor with Truck bearing RC No. PB-03J-2856 was coming from Pathankot to Rampura Phul on the said Truck which was being driven by respondent no.1 Budh Singh. When they reached near Akal Academy in the area of Village Tibbar,

it struck against a cyclist and thereafter, the Truck became out of

control of respondent no.1 and further struck against a tree standing by the side of the road with full force as a result of which Gurpreet Singh who was sitting by the side of the Driver of the Truck came out of the Truck and his head struck against the tree and died at the spot. The accident was witnessed by Pritam Singh son of Chatar Singh resident of Gurdaspur. The dead body of Gurpreet Singh was subjected to post mortem examination in Civil Hospital, Gurdaspur on 10.10.2011. Regarding this accident, a case FIR No. 63 dated 9.10.2011 under Section 304-A and 279 of the Indian Penal Code was registered with the police of Police Station Tibbar against respondent no.1 on the basis of the statement made by Ram Nand Mishra.

COMPENSATION ASSESSED BY THE MACT

On account of death of Gurpreet Singh, his parents Jasvir Kaur and Paramjit Singh-appellants filed claim petition under Section 163-A of the Motor Vehicles Act, 1988, which was accepted partly by the Tribunal and a sum of Rs.2,90,000/- was awarded as compensation on account of death of Gurpreet Singh. The monthly income of the deceased was assessed at Rs. 3000/- per month. The annual income thus came to Rs.36,000/- (Rs.3000/-x12). The deceased being bachelor, fifty per cent amount was deducted towards personal and living expenses. The dependency of claimants, thus, came to Rs.18,000/- per annum. Gurpreet Singh was presumed to be 18 years of age at the time of the accident and hence the multiplier of 16 was applied. Thus, the claimants were

found entitled to compensation of Rs.2,88,000/-. In addition to it, further compensation of Rs.2,000/- towards funeral expenses was awarded. Hence the claimants were found entitled to total compensation of **Rs. 2,90,000/-**. 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.

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 is re-assessed as under:-

<i>Sr. No.</i>	<i>HEADS</i>	<i>CALCULATION</i>
(I)	Income	Rs.3000/- per month
(ii)	50% of (i) above to be added as future prospects	[Rs.3000/-+Rs.1500/-] Rs. 4500/- per month
(iii)	50% of (ii) deducted personal expenses of the deceased	[Rs.4500/-]- [Rs.2250/-] =Rs.2250/- per month

<i>Sr. No.</i>	<i>HEADS</i>	<i>CALCULATION</i>
(iv)	Compensation after multiplier of 16 was applied	[Rs.2250/-x12x16] Rs.4,32,000/-
(v)	Loss of love and affection for parents	Rs.1,00,000/- (Rs.50,000/- for each parent)
(vi)	Funeral expenses	Rs.25,000/-
	TOTAL COMPENSATION AWARDED	Rs.5,57,000/-
	Enhanced amount of compensation	(Rs.5,57,000/-)- (Rs.2,90,000/-) =Rs.2,67,000/-

The enhanced amount of compensation of **Rs.2,67,000/-** 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 award stands modified to the above extent and the present appeal is partly allowed.

November 20, 2015
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(**RITU BAHRI**)
JUDGE