

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

FAO No.2679 of 2013 (O&M)

Date of decision : 10.09.2015

Smt. Sarti ...Appellant
versus
Rakesh & others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Vikrant Hooda, Advocate
for the appellant.

Mr. R.S.Sangwan, Advocate for respondents No.1 and 2.

Mr. Rajinder Arora, Advocate
for respondent No.3.

RITU BAHRI, J (Oral)

CM No.12145-CII of 2013

There is a delay of 801 days in filing the appeal.

Counsel for the respondent has no objection if the
application for condonation of delay is allowed.

Accordingly, the application is allowed and the delay of
801 days in filing the appeal is condoned.

CM stands disposed of.

FAO No.2679 of 2013

The appellant/claimant has come up in appeal against the
award of the Motor Accidents Claims Tribunal, Jhajjar (hereinafter
referred to as “the Tribunal”) dated 01.11.2010, whereby the Tribunal
has awarded a compensation of Rs.1,45,000/- to the claimant on
account of death of Bhagwan @ Pale, who died in a road accident
which took place on 29.06.2009.

Facts not in dispute are that on 29.06.2009 at about 8.00 a.m., Bhagwan @ Pale (since deceased) was coming from village Nayola to his village Khanpur Khurd on motorcycle bearing No.HR-14-902?. His brother Ompal and brother-in-law (jeeja) Suresh Kumar were following him on another motorcycle. They reached near village Sudhrana, District Rewari. In the meantime, the offending vehicle came from the opposite side being driven by respondent No.1 rashly and negligently, at high speed and in a zig-zag manner, dashed into the motorcycle and caused the accident in question. Bhagwan @ Pale fell down from the motorcycle and sustained multiple injuries on his person. Om Pal and Suresh Kumar were shifting him to PGIMS, Rohtak but on the way, he died due to the injuries sustained by him in the accident. Om Pal reported the matter to the police of PS Kosli vide FIR No.122 dated 29.06.2009.

On account of death of Bhagwan @ Pale, the claimant filed claim petition under Section 166 of the Motor Vehicles Act, 1988. The Tribunal after going through the evidence on record, has returned finding on issue No.1 in favour of the claimant. Eye witness of the accident Om Pal appeared as PW1 and he was the complainant in the FIR. He has proved the copy of the FIR Ex.P2. The claimant appeared as PW2 and filed her affidavit and placed on record copy of the post mortem report Ex.P5. Driving licence of respondent No.1 is at Ex.R3. The finding does not require any interference that the accident took place on account of rash and negligent driving of respondent No.1. After going through the evidence, the Tribunal has accepted the

claim petition and awarded a sum of Rs.1,40,000/- as compensation to the claimant on account of death of Bhagwan @ Pale, after assessing the income of the deceased Bhagwan @ Pale as Rs.3,500/- per month and Rs.42,000/- per annum. 1/3rd amount was deducted towards personal expenses. The dependency of claimant, thus, came to Rs.28,000/- per annum. Bhagwan @ Pale was about 40 years of age at the time of accident and the multiplier of 5 was applied. Thus, the claimant was found entitled to compensation of Rs.1,40,000/- (Rs.28,000/- x 5). In addition to it, Rs.5,000/- were also awarded on account of transportation and cremation of the dead body of the deceased. Hence the claimant was found entitled to total compensation of **Rs.1,45,000/-**.

Feeling dissatisfied with the impugned award, the appellant/claimant has preferred the present appeal.

I have heard 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 & ors. Vs. Maharaj Singh & ors., 2015 (2) RCR (Civil) 520, Sarla Verma & ors. Vs. Delhi Transport Corporation & anr., 2009 (3) RCR (Civil) Page 77, Rajesh & ors. Vs. Rajbir Singh & ors., 2013 (9) SCC 54 and Munna Lal Jain & anr. Vs. Vipin Kumar Sharma & ors., 2015 (3) Recent Apex Judgments*

459. Accordingly, the compensation is reassessed as under:-

Sr. No.	Heads	Calculation
(i)	Annual Income	Rs.42,000/-
(ii)	50% of (i) added for future prospects (age of deceased was 40 years)	(Rs.42,000/-) + (Rs.21,000/-) = Rs.63,000/-
(iii)	Dependency of the claimant after deducting 50% of (ii) towards personal expenses of the deceased	(Rs.63,000/-) – (Rs.31,500/-) = Rs.31,500/-
(iv)	Compensation after multiplier of 15 is applied	(Rs.31,500/- x 15) = Rs.4,72,500/-
(v)	Loss of estate	Rs.1,00,000/-
(vi)	Loss of love and affection to the mother	Rs.50,000/-
(vii)	Funeral expenses	Rs.25,000/-
(viii)	Total Compensation awarded [(iv)+(v)+(vi)+(vii)]	Rs.6,47,500/-
(ix)	Enhanced amount of compensation	(Rs.6,47,500/-)-(Rs.1,45,000/-) = Rs.5,02,500/-

The enhanced amount of compensation of **Rs.5,02,500/-** 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 realisation, in view of the judgment of Hon'ble Supreme Court in the case of **Kumari Kiran through her father Harinarayan Vs. Sajjan Singh & ors., 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.

10.09.2015
Vinay

(RITU BAHRI)
JUDGE