

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

FAO No.1473 of 2014

Date of decision: 15.10.2015

Smt. Manpreet Kaur and others

.....Appellants

Versus

Hira Lal and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. R.S. Longia, Advocate,
for the appellants.

Mr. Munish, Advocate,
for Mr. Maninder Arora, Advocate,
for respondent Nos. 2 and 3.

Mr. Suvir Dewan, Advocate,
for respondent No.4-Insurance Company.

Ritu Bahri, J.

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Kurukshetra (hereinafter referred to as 'the Tribunal') vide award dated 06.02.2013 on account of death of Gurdeep Singh in a vehicular accident, which took place on 17.06.2011. Appellant No.1 is widow, appellant Nos. 2 is daughter, appellant No.3 is son and appellant Nos.4 and 5 are parents of deceased-Gurdeep Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 17.06.2011, Gurdeep Singh (deceased) was going from village Sahapura, District Ambala to his house at Shahabad on a motorcycle bearing registration No. HR-07-N-1905. His brother-in-law Sanjeev Kumar son of Jagir Singh was travelling as a pillion

rider. When they had covered a distance of about one kilometer, a truck

bearing registration No. UP-77-N-1162, being driven by Hira Lal-respondent No.1 in a rash and negligent manner, came from the side of Saha crossing at a high speed and struck against the motorcycle of Gurdeep Singh, as a result of which, Gurdeep Singh received serious injuries and died at the spot. After the accident, respondent No.1 fled from the spot leaving behind his truck. With regard to the accident, FIR No.92 dated 18.06.2011, under Sections 279, 304-A IPC was registered at Police Station, Saha, District Ambala. Consequently, the claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

The Tribunal, on the basis of evidence led by the parties, gave finding on issue No.1 in favour of the claimants by observing that the accident took place on account of rash and negligent driving of truck bearing registration No. UP-77-N-1162 by Hira Lal-respondent No.1. This finding was based on the deposition of Sanjeev Kumar (PW-1), who was an eye witness of the accident. He had also deposed that he had lodged a report with the police, on the basis of which, FIR No.92 dated 18.06.2011 was registered. The evidence led by the claimants before the Tribunal remained unrebutted. Ultimately, the claim petition was accepted by the the tribunal and a sum of Rs.7,35,000/- was awarded as compensation on account of death of Gurdeep Singh along with interest at the rate of 7.5% per annum from the date of filing of the petition till its realization. In the absence of any proof regarding income and occupation of the deceased, his income was assessed as that of a casual labourer i.e. Rs.5000/- per month, which came to be Rs.60,000/- per annum, out of which 1/4th amount was deducted towards personal expenses. The dependency of claimant, thus,

came to Rs.45,000/- per annum. The deceased was 32 years of age at the

time of the accident/death and the multiplier of 16 was applied. Thus, the claimants were found entitled to compensation of Rs.7,20,000/-. In addition to it, further compensation of Rs.10,000/- was awarded towards transportation of dead body/funeral expenses and Rs.5000/- on account of loss of consortium. Hence the claimants were found entitled to total compensation of Rs.7,35,000/-.

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. 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 **New India Assurance Co. Ltd. vs. Gopali & others**, 2012 (12) SCC 198, **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	CALCULATION
(i)	Income	Rs.5000 /- per month
(ii)	50% of (i) above to be added as future prospects	Rs.5000 + Rs.2500 = Rs.7500/-
(iii)	1/10 th of (ii) deducted as personal expenses of the deceased	Rs.7500 – 750= Rs.6750/-

SR. No.	HEADS	CALCULATION
(iv)	Compensation after multiplier of 16 is applied	Rs.6750 x 12 x 16 = Rs.12,96,000/-
(v)	Loss of consortium	Rs.1,00,000/-
(vi)	Loss of estate	Rs.1,00,000/-
(vii)	Loss of love and affection for children	Rs.2,00,000/- (Rs.1,00,000/- each)
(viii)	Loss of love and affection for parents (appellant Nos.4 and 5)	Rs.1,00,000/- (Rs.50,000/- each)
(ix)	Funeral expenses	Rs.25,000/-
(x)	TOTAL COMPENSATION AWARDED	Rs.18,21,000/-
	Enhanced amount of compensation	Rs.18,21,000 – 7,35,000 = Rs.10,86,000/-

The enhanced amount of compensation of **Rs.10,86,000/-** 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.

15.10.2015
ajp

(RITU BAHRI)
JUDGE