

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

**FAO No.3171 of 2013 (O&M)
Date of decision: 01.10.2015**

Paramjit Kaur and others

....Appellants

Versus

Dadu Kumar Rai and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Raj Kumar Rana, Advocate
for the appellants.

Mr. Tapish Gupta, Advocate
for Ms. Puja Chopra, Advocate
for respondents No.1 and 2.

Mr. A.S.Sidhu, Advocate
for respondent No.3.

RITU BAHRI J. (Oral)

CM No.13624-CII of 2013

For the grounds mentioned in the application, the same is
allowed and the delay of 229 days in filing the appeal stands
condoned.

MAIN CASE

This appeal has been filed by the claimants-appellants

seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Ludhiana (hereinafter referred to as 'the Tribunal') vide award dated 10.05.2012, on account of death of Amarjit Singh in a motor vehicular accident which took place on 06.05.2009.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 06.05.2009, Buta Singh (now deceased) was going from his village to Ludhiana on foot. When he reached at bus stop of village Sarabha, he took lift on Bajaj Chetak scooter bearing registration No.PB-10-BC-5342, which was being driven by Amarjit Singh. Amarjit Singh was driving the said scooter on correct left side of the road. At about, 08:15 a.m., when they reached on the culvert of drain near thread factory of village Jodhewal, in the meantime a Tata Tempo Ace bearing registration No.PB-10-CJ-2060, came from opposite side. The driver of the Tata Tempo was driving his vehicle at a very high speed, rashly, negligently and in a zig-zag manner. On seeing, Tata Tempo, Amarjit Singh took his scooter on the extreme left side of the road on kacha berm but the offending vehicle hit against the scooter of Amarjit Singh by coming on the wrong side of the road. As a result of which, both the occupants of scooter fell down and suffered multiple injuries. The accident was witnessed by many people including Hardev Singh who was following the scooter of Amarjit Singh on his separate scooter.

Hardev Singh took both the injured to Sarabha Charitable Hospital, but due to serious condition Amarjit Singh (now deceased) was taken to 9, Air Force Hospital, Halwara, where he died on the same day on account of the injuries sustained by him in the said accident.

In this regard, FIR No.42 dated 06.05.2009, under Sections 304-A, 279, 337, 338 and 427 IPC, in respect of the accident in question was got registered at Police Station Sudhar, on the statement of Hardev Singh.

Consequently, the claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident was caused on account of rash and negligent driving by Dadu Kumar-respondent No.1, and thus, the Tribunal has returned the finding on Issue No.1 in favour of the claimants-appellants.

The claim petition was accepted by the Tribunal and a sum of Rs.25,85,000/- was awarded as compensation on account of death of Amarjit Singh along with future interest at the rate of 6% per annum from the date of filing of the petition till its realization.

The monthly income of the deceased was assessed at Rs.19,574/- (rounded off to Rs.19,000/-), out of which 1/4th

amount was deducted towards personal expenses. The dependency of claimants, thus, came to Rs.14,250/- per month, which came to Rs.1,71,000/- per annum. The Tribunal has applied the multiplier of 15. Thus, the claimants were found entitled to compensation of Rs.25,65,000/-. In addition to it, further compensation of Rs.10,000/- was awarded towards funeral expenses and Rs.10,000/- was awarded towards consortium. Hence, the claimants were found entitled to total compensation of Rs.25,85,000/-.

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 *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.19,000 x 12) =Rs.2,28,000/-
(ii)	50% of (i) above to be added as future prospects (Age 39 years)	(Rs.2,28,000/-) + (Rs.1,14,000/-) = Rs.3,42,000/-
(iii)	Dependency of the claimant after deducting 1/4th of (ii) towards personal expenses of the deceased	(Rs.3,42,000/-) - (Rs.85,500) = Rs.2,56,500/-
(iv)	Compensation after multiplier of 15 is applied	(Rs.2,56,500/- x 15) =Rs.38,47,500/-
(vi)	Loss of love and affection to mother	Rs.50,000/-
(vii)	Loss of love and affection to minor children	Rs.2,00,000/- (Rs.1,00,000/- each)
(viii)	Loss of consortium to widow	Rs.1,00,000/-
(vii)	Loss of estate	Rs.1,00,000/-
(viii)	Funeral expenses	Rs.25,000/-
(ix)	TOTAL COMPENSATION TO BE AWARDED	Rs.43,22,500/-
(x)	Enhanced amount of compensation	(Rs.43,22,500/-) – (Rs.25,85,000/-) =Rs.17,37,500/-

The enhanced amount of compensation of **Rs.17,37,500/-** 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 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.

(RITU BAHRI)
JUDGE

01.10.2015

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