

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

F.A.O No. 3284 of 2013 (O&M)

Date of decision:- 16.11.2015

Smt. Harjinder Kaur & ors.

...Appellants

Versus

Ramesh Kumar (Kala)ors.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Ms. Surinder Kaur, Advocate for
Mr. R.S. Malhotra, Advocate
for the appellants

Mr. Vinod Gupta, Advocate
for respondent No. 3

Ms. Sonia Sharma, Advocate, for respondent No. 4

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

RITU BAHRI J. (Oral)

C.M. No. 13790-CII of 2013

For the reasons mentioned in the application, delay of 142 days in filing the present appeal is condoned.

The application stands disposed of accordingly.

F.A.O No. 3284 of 2013

1. The present appeal has been preferred by the claimants-appellants (for short 'the appellant'), against award dated 04.10.2012 passed by the learned Motor Accident Claims Tribunal, Amritsar (for

short, 'the Tribunal') to the tune of Rs.3,60,000/-.

FACTS NOT IN DISPUTE

2. On 27.12.2005, Rajinder Kumar, age 30 years, since deceased) was travelling in auto rickshaw bearing registration No. PB-02-AN-9465 as a bona fide passenger from Naraingarh, Chheharta towards bus stand, Amritsar and when the auto-rickshaw reached near Navpreet Hospital, Chheharta, the driver of auto rickshaw lost his control and thus overturned, resulting in to the death of Rajinder Kumar, as he received injury of brain compression and other injuries.

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

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the record.

COMPENSATION ASSESSED BY MACT

6. The learned tribunal took the income of the deceased (30 years old) at Rs.3000/- as the claimants have failed to produce any documentary evidence that the deceased was earning and his annual dependency comes to Rs.36000/- and 1/3rd was deducted towards personal expenses and the amount comes to Rs.24000/-. The multiplier of 15 was applied. The total compensation of Rs.3,60,000/- was awarded to the claimants.

RE-ASSESSED COMPENSATION

7. It is not in dispute that the offending vehicle was fully insured with the Insurance company. The deceased was 30 years old at the time of alleged accident. The compensation requires enhancement only to the extent that the multiplier of 16 should be applied and something should be given under conventional head, as per judgment of Hon'ble the Supreme Court in a case of **R.K. Malik and anr. vs. Kiran Pal and others, 2009(14) SCC 1** wherein Rs.75,000/- had been awarded under conventional head in claim petitions filed under Section 163-A of the Motor Vehicle Act.

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:-

9. The monthly income of the deceased is assessed at Rs.3000/- and 1/3rd cut is imposed on account of personal expenses and thus the monthly income of the deceased comes to Rs.2000 and annual the income comes to Rs.24000/- and multiplier of 16 is applied. The amount comes to Rs.3,84,000/- and further Rs.75,000/- is awarded towards conventional head. The total compensation thus comes out to Rs.4,59,000/- and the compensation awarded by the Tribunal was Rs.3,60,000/-. The appellants are held entitled to Rs.99,000/- (Rs.4,59,000-3,60,000).

10. Resultantly, the enhanced amount of compensation of Rs.99,000/- 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.

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

16.11.2015

G Arora

(RITU BAHRI)
JUDGE