

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3558 of 2013

Date of Decision: 04.09.2015

Savita and others

.....appellants

Vs.

Jitender and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

**Present:- Ms.Avnika Gupta, Advocate for
Mr.Vinod Bhardwaj, Advocate for the appellants.**

**Mr.T.K.Joshi, Advocate for
respondent No.3/Insurance Company.**

RITU BAHRI, J. (ORAL)

This appeal has been filed by the legal representatives of claimant-Pawan (since deceased) seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Bhiwani (hereinafter referred to as 'the Tribunal') vide award dated 03.04.2013 on account of injury suffered by Pawan Kumar in a motor vehicular accident.

FACTS NOT IN DISPUTE

The brief facts of the case are that on 10.07.2010, Pawan Kumar (since deceased) along with his cousin Daya Kishan and Kuldeep and Deepak Kumar, were going from Bhiwani to Hardwar for a dip in Ganga in his car bearing registration No.HR-16F-3970, being driven by the Kuldeep. At about 11:30 P.M, when they had crossed Lalukheri on Shamli-Muzaffarnagar road, in the meantime one TATA-407 bearing registration No.HR61-4649, being driven by its driver rashly, negligently and at a very speed and in a zig-zag manner, came on the wrong side and struck against the car. Due to heavy impact, Daya Kishan and Deepak Kumar suffered multiple grievous injuries and they died at the spot and Kuldeep,

injuries on their respective persons. Injured Kuldeep and Pawan were got admitted in the hospital and the dead bodies of the deceased Daya Kishan and Deepak Kumar were lying at the spot. The accident had taken place due to sole rash and negligent driving of respondent No.1 while driving offending vehicle bearing registration No.HR61-4649. On having received the information of the accidents and death of the deceased, Ganga Bishan along with several other persons reached at the place of occurrence and on the statement of Ganga Bishan, FIR No.254 dated 11.07.2010 under Sections 279, 337, 338, 304-A and 427 of the Indian Penal Code was registered against respondent No.1. The accident had taken place due to sole rash and negligent driving of respondent No.1 while driving vehicle bearing registration No.HR61-4649.

COMPENSATION ASSESSED BY THE MACT

On account of injuries suffered by him in the accident, appellant-claimant Pawan Kumar through his legal representatives filed claim petition under Section 166 of the Motor Vehicles Act, 1988. The legal representatives of Pawan Kumar produced the copy of bills mentioning the expenses on account of injury suffered by him. The details of the same mentioned in the paragraph 25 of the award which have been accepted by the learned Tribunal. On account of the same, he was awarded Rs.41,020/-. In addition to this, he was also awarded Rs.2,000/- on account of hospitalization, Rs.3000/- on account of attendant, Rs.14,000/- on account of pain and suffering regarding fractures and Rs.5,000/- towards special diet. Thus, total compensation was awarded at Rs.65,020/-.

REASSESSED COMPENSATION

I have heard learned counsel for the parties and perused the case file.

The fact of the accident is admitted and proved. Pawan Kumar-appellant(since deceased) had suffered injuries as a result of accident.

applying correct method but compensation over the conventional heads has been awarded on the lower side. Accordingly, the compensation is re-assessed as under:-

<i>Sr. No.</i>	<i>HEADS</i>	<i>CALCULATION</i>
1.	Medical treatment expenses	Rs.41,020/-
2	Pain and suffering regarding fractures	Rs.25,000/-
3	Hospitalization	Rs.10,000/-
4	Attendant	Rs.5,000/-
5	Special diet	Rs.10,000/-
	Total compensation awarded	Rs.91,020/-
	Enhanced amount of compensation	[(Rs.91,020/-)- (Rs.65,020/-)] =Rs.26,000/-

The enhanced amount of compensation of Rs.26,000/- 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.

(RITU BAHRI)
JUDGE

04.09.2015
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