

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

**FAO No.2007 of 2014 (O&M)
Date of decision: 15.10.2015**

Smt. Rupinder Kaur and others

....Appellants

Versus

Joginder Pal and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ishan Cooner, Advocate
for Mr. J.S. Cooner, Advocate
for the appellants.

Ms. Vandana Malhotra, Advocate
for respondent No.2.

RITU BAHRI J. (Oral)

CM No.7237-CII of 2014

For the grounds mentioned in the application, the same
is allowed and the delay of 41 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, Tarn Taran (hereinafter referred to as 'the Tribunal') vide award dated 02.09.2013, on account of death of Kuljinder Singh in a motor vehicular accident.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 03.07.2011, Kuljinder Singh was coming from Harike to his village Jama Rai by driving Tata Sumo bearing registration No.HR-26-C-7677. Satbir Singh son of Ajit Singh and Sukhjinder Singh @ Manga, were also travelling in that vehicle with Kuljinder Singh. Kuljinder Singh was driving his vehicle on the correct left hand side of the road at a normal speed. At about 06:00 a.m., when they crossed vilalge Joneke on Tarn Taran to Harike road, a truck trolla bearing registration No.HR-63-A-3057, being driven by respondent No.1, in a rash and negligent manner came from opposite side and struck in Tata Sumo of Kuljinder Singh by going towards extreme wrong side of the road on kachcha birm. As a result of which, Kuljinder Singh died on the spot on account of his injuries and the Tata Sumo was extensively damaged beyond repair. The said accident was witnessed by Satbir Singh and Sukhjinder Singh.

In this regard, First Information Report, in respect of the accident in question was got registered.

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

COMPENSATION ASSESSED BY THE MACT

Before the Tribunal, Rupinder Kaur appeared as PW-1 and tendered her affidavit Ex.PW-1/A to prove the accident in question. PW-2-Satbir Singh (eye-witness) also corroborated the testimony of PW-1 and he has also proved the accident in question. Neither the driver of the offending vehicle nor any other person claiming to have witnessed the accident appeared in the witness-box to rebut the statement of PW-1 and PW-2. However, the Insurance Company also failed to adduce any oral evidence and it simply tendered copies of documents i.e. copy of report under Section 173 Cr.P.C. (Mark-A) and copy of insurance cover of truck (Mark-B).

On the basis of evidence led by the parties, the Tribunal has rightly returned the finding on Issues No.1 to 3, in favour of the claimants-appellants.

The claim petition was partly accepted by the Tribunal and a sum of Rs.4,74,000/- was awarded as compensation on account of death of Kuljinder 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.3,000/- per month, out of which 1/4th amount was deducted towards personal expenses. The dependency of claimants, thus, came to Rs.2,250/- per month, which came to Rs.27,000/- per

annum. Kuljinder Singh (deceased) was 27 years of age at the time of the accident/death and the multiplier of 17 was applied. Thus, the claimants were found entitled to compensation of Rs.4,59,000/-. In addition to it, further compensation of Rs.10,000/- was awarded towards consortium and Rs.5,000/- in respect of funeral expenses. Hence, the claimants were found entitled to total compensation of Rs.4,74,000/-.

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.

Keeping in view the Price Index for the year 2011, the income of the deceased is required to be taken as Rs.3,840/- per month (rounded off to Rs.3,800/- per month).

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.45,600/-
(ii)	50% of (i) above to be added as future prospects (Age 27 years)	(Rs.45,600/-) + (Rs.22,800/-) = Rs.68,400/-
(iii)	Dependency of the claimant after deducing 1/4th of (ii) towards personal expenses of the deceased	(Rs.68,400/-) - (Rs.17,100) = Rs.51,300/-
(iv)	Compensation after multiplier of 17 is applied	(Rs.51,300/- x 17) =Rs.8,72,100/-
(v)	Loss of consortium	Rs.1,00,000/-
(vi)	Loss of estate	Rs.1,00,000/-
(vii)	Loss of love and affection for minor children	Rs.2,00,000/- (Rs.1,00,000/- each)
(viii)	Loss of love and affection to mother	Rs.50,000/-
(ix)	Funeral expenses	Rs.25,000/-
(x)	TOTAL COMPENSATION AWARDED	Rs.13,47,100/-
(xi)	Enhanced amount of compensation	(Rs.13,47,100/-) – (Rs.4,74,000/-) =Rs.8,73,100/-

The enhanced amount of compensation of **Rs.8,73,100/-** 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

15.10.2015
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