

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.2035 of 2014

Date of Decision: 17.12.2015

Mona Devi and others

.....appellants

Vs.

Vineet Kumar and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Atul Yadav, Advocate for the appellants.

Mr.Rajbir Singh, Advocate for
the respondent/Insurance Company.

RITU BAHRI, J. (ORAL)

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Gurgaon (hereinafter referred to as 'the Tribunal') vide award dated 03.12.2013 on account of death of Narayan in a vehicular accident, husband and father of the claimants.

FACTS NOT IN DISPUTE

As per appellants, on 14.04.2010 Narayan (since deceased) was going to village Khor with his cousin Alkuti and some other passengers namely Satbir Singh and Ankit Kumar in vehicle bearing registration No.HR-38-5001 which contained wooden items. Respondent No.1 was driving the said vehicle in a rash and negligent manner, at a very high speed and without following traffic rules. Narayana (deceased) and other co-passengers objected to that and asked respondent No.1 to drive the vehicle slowly but to no effect. At about 8:30 p.m. When they reached nearby a Masjid, Pataudi-Rewari Road, the offending vehicle directly hit against a tree very badly and because of impact of of the said accident, Narayana (since deceased) fell down on the road and received serious injuries on

his head and multiple grievous injuries on the all parts of the body and died on the spot. Respondent No.1 i.e. driver of offending vehicle fled away from the spot. As per claimants, the accident had taken place because of rash and negligent driving of respondent No.1. Matter was report to the police vide FIR No.81 dated 15.04.2010 on the statement of Satbir.

COMPENSATION ASSESSED BY THE MACT

The learned Tribunal on the basis of evidence on record returned to the findings that accident took place on account of rash and negligent driving of respondent No.1-Vineet Kumar. In the FIR Ex.P3, the factum of accident was confirmed and number of Jeep was also mentioned. Driver/Respondent No.1-Vineet Kumar was proceeded against for the offence under Sections 279, 337, 338 and 304-A IPC. The compensation has been assessed keeping in view the salary of the deceased as Rs.5000/- the total compensation has been assessed as under:-

Serial No.	Heads	Calculation
1	Income	Rs.5,000/- X 12= Rs.60,000/-
2	Deduction (1/3rd)	Rs.60000-20000=Rs.40,000/-
3	Multiplier (age 32)	Rs.40,000 X 16= Rs.6,40,000/-
4	Consortium	Rs.1,00,000/-
5	Last rites	Rs.25,000/-
6	Loss of estate	Rs.10,000/-
	Total	Rs.7,75,000/-

REASSESSED COMPENSATION

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

The fact of the accident is admitted and proved. The deceased 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*

Verma 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 is re-assessed as under:-

Sr. No.	HEADS	CALCULATION
1.	Annual income	Rs.5000/- X 12= Rs.60,000/-
2.	50% of (i) above to be added as future prospects (age of deceased 32 years)	[Rs.60,000/- + Rs.30,000/-]=Rs.90,000/-
3.	1/3 th deduction as dependents are two in number	[(Rs.90,000/-)-(Rs.30,000/-)] =Rs.60,000/-
4.	Multiplier	[Rs.60,000/- X 16]=Rs.09,60,000/-
5.	Loss of consortium	Rs.1,00,000/-
6	Loss of Estate	Rs.1,00,000
7	Love and affection (two minor children)	Rs.2,00,000/- (Rs.1,00,000/- each)
8	Funeral Expenses	Rs.25,000/-
	Total	Rs.13,85,000/-
	Enhanced amount of compensation	Rs.13,85,000- Rs.7,75,000=6,10,000/-

The enhanced amount of compensation of Rs.6,10,000/- 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