

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

**FAO No.3682 of 2013 (O&M)  
Date of decision: 21.09.2015**

Fateh Bahadur and another

....Appellants

Versus

Raghubir Singh and others

....Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**

Present: Mr. Vivek Suri, Advocate,  
for the appellants.

None for the respondents.

**RITU BAHRI J. (Oral)**

Learned counsel for the appellants states that respondent No.2 is the owner of offending vehicle. Therefore, his service is dispensed with as the liability is of the Insurance Company-respondent No.3.

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'the Tribunal') vide award dated 10.04.2013, on account of death of Smt. Usha Rani in a motor vehicular accident which took place on 08.10.2011. Appellant No. 1 is husband, whereas appellant No.2 and proforma respondent No.4 are sons of deceased Usha Rani.

**FACTS NOT IN DISPUTE**

Brief facts of the case are that on 08.10.2011, deceased-Usha Rani was going on a rickshaw, which was being pulled by Rajinder Kumar

resident of Guru Nanak Nagar, Patiala. At about 7.00 P.M., when they reached near Gurdwara Sahib, Novi Patshahi, Bahadurgarh, Rajpura-Patiala Road, an Elantra Car bearing registration No. PB-65-A-0056, being driven by Raghbir Singh-respondent No.1 in a rash and negligent manner, came from behind and struck against the rickshaw, as a result of which Usha Rani and Rajinder Kumar received multiple, simple and grievous injuries. Usha Rani died at the spot. With regard to the accident, FIR (Ex.P1) was registered at Police Station, Sadar, Patiala. 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 Raghbir Singh-respondent No.1 and thus, returned the finding on Issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of Partap Singh (PW-1), who was an eye witness of the accident. Ultimately, the claim petition was accepted by the Tribunal and a sum of Rs.4,06,000/- was awarded as compensation on account of death of Usha Rani. The income of the deceased was taken as Rs.4500/- per month, which came to Rs.54,000/- per annum. Out of this, 1/3<sup>rd</sup> amount was deducted towards personal expenses. The dependency of claimants, thus, came to Rs.36,000/- per annum. As per postmortem report, the deceased was 55 years of age at the time of accident/death and the multiplier of 11 was applied. Thus, the claimants were found entitled to compensation of Rs.3,96,000/-. In addition to it, further compensation of Rs.5000/- was awarded towards loss of consortium and Rs.5000/- as funeral charges. Hence, the claimants were found entitled to total compensation of

Rs.4,06,000/-. 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, *Parvinder Singh and another vs. Dilbagh Singh and others*, 2014 (4) RCR (Civil) 895, *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, keeping in view the fact that the accident took place in the year 1996, the compensation is re-assessed as under:-

| Sr. No. | HEADS                                          | CALCULATIONS                                   |
|---------|------------------------------------------------|------------------------------------------------|
| (i)     | Annual Income                                  | Rs.54,000/-                                    |
| (ii)    | Compensation after multiplier of 11 is applied | Rs.54,000/- x 11 =<br>Rs.5,94,000/-            |
| (iii)   | Loss of consortium                             | Rs.1,00,000/-                                  |
| (iv)    | Loss of love and affection for the children    | Rs.2,00,000/-<br>(Rs.1,00,000/- each)          |
| (v)     | Loss of estate                                 | Rs.1,00,000/-                                  |
| (vi)    | Funeral expenses                               | Rs.25,000/-                                    |
| (vii)   | <b>TOTAL COMPENSATION AWARDED</b>              | <b>Rs.10,19,000/-</b>                          |
| (viii)  | <b>Enhanced amount of compensation</b>         | <b>Rs.10,19,000 – 4,06,000 = Rs.6,13,000/-</b> |

The enhanced amount of compensation of **Rs.6,13,000/-** 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**

21.09.2015  
ajp