

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

F.A.O No. 3925 of 2013 (O&M)

Date of decision:- 16.11.2015

Mukhtiar Kaur & anr.

...Appellants

Versus

Gurdev Singh and ors.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Gaurav Sharma, Advocate
for the appellants

None for respondent No. 1

Mr. Jasbir Rattan, Advocate
for respondent No. 2

Ms. Vandana Malhotra, Advocate
for respondent No. 3

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

RITU BAHRI J. (Oral)

1. The present appeal has been preferred by the claimants-appellants (for short 'the appellant'), against award dated 08.05.2013 passed by the learned Motor Accident Claims Tribunal, Barnala (for short, 'the Tribunal') to the tune of Rs.2,09,000/-.

FACTS NOT IN DISPUTE

2. On 04.05.2012, Jaswinder Singh (since deceased) along with

GAURAV ARORA
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I attest to the accuracy and
integrity of this document

Dharampal Singh @ Makhan, Avtar Singh and Ajaib Singh were returning from State of Haryana on Harvester combine, which was being driven by Dharampal Singh @ Makhan. When they were about two kilometers short of village Sekha, one truck bearing registration No. HR-68-A-5585, being driven by respondent No. 1 came from opposite side in a rash and negligent manner and struck against the harvester being driven by the deceased. The deceased received multiple and grievous injuries and died on the spot and his other friends also received injuries. F.I.R No. 113 dated 04.05.2012 under Section 304-/279/337/338/427 IPC was registered in this regard against respondent No. 1.

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 the record.

COMPENSATION ASSESSED BY MACT

6. The learned tribunal took the income of the deceased (24 years old) at Rs.4000/- as the claimant has failed to produce any documentary evidence that the deceased was earning and his annual dependency comes to Rs.48000/- and 75% was deducted towards personal expenses and the amount comes to Rs.12000/-. The multiplier of 17 was applied and Rs.5000/- was awarded towards funeral expenses. The total compensation of Rs.2,09,000/- 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. Further the income of the deceased has to be taken at Rs.4800/- per month i.e the minimum wages in the State of Haryana in the year 2013.

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:-

Sr. No.	Heads	Calculations
(i)	Salary	Rs.4800/- per month
(ii)	50% of (i) above to be added as future prospects=	Rs.4800+Rs.2400=Rs.7200/- per month
(iii)	1/2 of (ii) deducted as personal expenses of the deceased=	Rs.7200-Rs.3600=Rs.3600 per month
(iv)	Compensation after multiplier of 18 is applied	Rs.3600 X 12 X 18= Rs.7,77,600/-
(vi)	Loss of love and affection to parents	Rs.50,000/- each
(vii)	Funeral charges	Rs.25,000/-
(viii)	Total Compensation awarded	Rs.9,02,600/-
	Enhanced amount of compensation	Rs.9,02,600-Rs.2,09,000=Rs.6,93,600/-

9. Resultantly, the enhanced amount of compensation of Rs.6,93,600/- 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.

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

16.11.2015

G Arora

(RITU BAHRI)

JUDGE