

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

FAO No.364 of 2014 (O&M)
Date of decision: 09.10.2015

Rajesh Dhawan and others

....Appellants

Versus

Sanjay Kumar and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ashwani Arora, Advocate
for the appellants.

Mr. B.R.Rana, Advocate for
for respondent Nos.1 & 2.

None for respondent No.3.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal') vide award dated 05.04.2013, on account of death of Bhushan Rani in a motor vehicle accident which took place on 07.04.2010.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 07.04.2010, Smt. Bhushan Rani (deceased) was coming from Panchkula to Chandigarh while driving TVS Scooty on slow speed and on the left side of the road; that at about 05:00 p.m., after crossing Dhillon Lights Point, Manimajra, when she came little ahead towards Chandigarh, then in the meantime, a truck bearing registration No.HP-68-4239, driven by respondent No.1 in a rash and negligent manner, at a very high speed without following the mandatory traffic rules, came from behind and struck against her TVS Scooty. As a result of which, Smt. Bhushan Rani received serious, grievous and multiple injuries. Thereafter, she

was taken to GMCH, Sector 32, Chandigarh, where doctor declared her brought dead and post-mortem examination was conducted upon her.

In this regard, FIR No.96 dated 07.04.2010, in respect of the accident in question was got registered at Police Station Manimajra, Chandigarh.

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

COMPENSATION ASSESSED BY THE MACT

Before the Tribunal, Rajesh Dhawan appeared as PW-1 and tendered his affidavit Ex.P1/A, to prove 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-Rajesh Dhawan and the Tribunal has returned the finding on Issue No.1 in favour of the claimants-appellants.

Ultimately, 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 Sanjay Kumar-respondent No.1. The claim petition was accepted partly with costs by the Tribunal and a sum of Rs.26,64,899/- was awarded as compensation on account of death of Bhushan Rani along with future interest at the rate of 7% per annum from the date of filing of the petition till its realization.

The monthly income of the deceased was assessed at Rs.23,797/- (gross) per month and her annual income was assessed as Rs.2,85,564/- (Rs.23,797/- x 12). As per salary certificate Ex.P-7 a deduction of Rs.3,645/- per month was shown from the salary of the deceased. Thus, after deducting the saving of Rs.43,740/- (Rs.3,645/- x 12), her annual income comes to Rs.2,41,824/- and after deducting

the amount of Rs.1,80,000/-, 10% of taxable income comes to Rs.6,182/- (Rs.2,41,824/- (-) Rs.1,80,000/- = 61,824/-). In view of law laid down in ***Santosh Devi vs. National Insurance Com., 2012 STPL (Web) SC 248***, after taking income of deceased at Rs.2,35,642/- and making a provision of 30% increase for a person less than 50 years of age, gross income of deceased is assessed at Rs.3,06,335/- per annum.

1/3rd of the income was deducted towards her personal expenses. The annual dependency of claimants, thus, came to Rs.2,04,223/- per annum. Bhushan Rani (deceased) was 48 years of age at the time of the accident/death and the multiplier of 13 was applied. Thus, the claimants were found entitled to compensation of Rs.26,54,889/-. In addition to it, further compensation of Rs.5,000/- was awarded funeral expenses, Rs.5,000/- in respect of loss of consortium. Hence, the claimants were found entitled to total compensation of Rs.26,64,899/-.

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, 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	CALCULATIONS
(i)	Annual Income	Rs.2,04,223/- per annum
(ii)	Compensation after multiplier of 13 is applied	(Rs.2,04,223/-x13) =Rs.26,54,899/-
(iii)	Loss of consortium to husband	Rs.1,00,000/-
(iv)	Loss of love and affection to each children	Rs.2,00,000/-(Rs.1,00,000/- each)
(v)	Funeral expenses	Rs.25,000/-
(vi)	Loss of estate	Rs.1,00,000/-
(vii)	TOTAL COMPENSATION TO BE AWARDED	Rs.30,79,899/-
(viii)	Enhanced amount of compensation	(Rs.30,79,899/-)- (Rs.26,54,899/-) =Rs.4,25,000/-

The enhanced amount of compensation of Rs.4,25,000/- 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

09.10.2015
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