

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

1. F.A.O No. 4500 of 2013 (O&M)

Jaspal Kaur and others ...Appellants
Versus

Vikas Kumar and others ...Respondents

2. F.A.O No. 5262 of 2013 (O&M)

United India Insurance Co. Ltd. ...Appellant
Versus

Jaspal Kaur and others ...Respondents

Date of decision:- 04.12.2015

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Arvind Rajotia, Advocate
for the appellant(s) in FAO No. 4500 of 2013 &
for the respondents in FAO No. 5262 of 2013

Mr. Paul S. Saini, Advocate
for respondent No. 3 in FAO No. 4500 of 2013 &
for the appellant in FAO No. 5262 of 2013

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

RITU BAHRI J. (Oral)

1. Two appeals, as noticed above, are being disposed of by this common judgment, having arisen out of the impugned Award dated 02.07.2013 passed by the learned Motor Accident Claims Tribunal, Patiala (herein after to be referred as 'the Tribunal').

Facts not in dispute

2. On 17.08.2011, respondent No. 1-Vikas Kumar while driving his

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I attest to the accuracy and
integrity of this document

car No. CH-03-C-4154 came in a rash and negligent manner hit the motorcycle driven by Angrej Singh from back side near Jyoti Sarup Bye Pass road (Lincon College), Fatehgarh Sahib. The accident was witnesses by Pawan Kumar. The injured was shifted to Civil Hospital, Fatehgarh from where he was referred to Rajinder Hospital, Patiala where he succumbed to his injuries. F.I.R No. 105 dated 18.08.2011 was got registered against Vikas Kumar.

COMPENSATION ASSESSED BY THE MACT

Sr. No.	Heads	Calculations
(i)	Salary	Rs.9000X12=Rs.1,08,000/- yearly
(ii)	Loss of dependency	Rs.1,08,000X1/4 th =Rs.81000/-
(iii)	Compensation after multiplier of 14 is applied	81000X14=Rs.11,34,000/-
(iv)	Compensation on account of funeral expenses	Rs.3,000/-
(v)	Loss of consortium	Rs.3,000/-
(vi)	Transportation Expenses	Rs.2000/-
	Total Compensation	Rs.11,42,000/-

3. Feeling dissatisfied with the impugned award, the claimants as well as Insurance Company have preferred their separate appeal.

Arguments Advanced

4. The learned counsel for the claimants-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*', .

5. On the other hand, learned counsel for Insurance Company, has contended that the learned Tribunal has erred in law in taking the income of the deceased at Rs.9000/- per month, as C.W.2 Paramjit Singh, Traffic Manager of M/s Nirbhai Roadways Pvt. Ltd, Ludhiana deposed that the deceased Angrej Singh was employed in their company as a driver on daily wages on 01.05.1997 and was getting a salary of Rs.9000/- per month excluding overtime and halting allowances. However, Ex CW2/2 shows that the deceased was working with the Company for the last one year. This statement was given on 01.09.2011. So, there is contradiction in the statement and the salary certificate of the deceased produced by the Traffic Manager.

REASSESSED COMPENSATION

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

7. The factum of accident is admitted by both the parties and the driving licence of the driver and the vehicle was insured with the Insurance Company is also not being disputed by the parties.

8. As far as the appeal preferred by the insurance company is concerned, it is liable to be dismissed. There can be a dispute with regard to the appointment of the deceased Angrej Singh but the employer of the deceased came in the witness box and proved copy of resolution i.e Ex CW2/1 authorizing him to depose in the Court and stated that the deceased was employed in their company since 01.05.1997 as a driver on daily wages and he further proved salary certificate Ex CW2/2 and pay slip Ex CW2/3.

Once it has been admitted by the employer that the deceased was working with them at a salary of Rs.10,600/- per month, thereafter, merely on the technical point that there is contradiction in Exhibits i.e CW2/2 and CW2/3, the argument of the learned counsel for the Insurance Company is rejected. The learned Tribunal has rightly taken the income of the deceased at Rs.9000/- per month.

9. As far, preferred by the claimants for enhancement of the amount of compensation, is concerned, it is liable to be modified in view of the above mentioned judgments and the compensation is re-assessed as under:-

Re-assessed compensation

Sr. No.	Heads	Calculations
(i)	Salary	Rs.9000/- per month
(ii)	30% of (i) above to be added as future prospects= Age of the deceased=41 years	Rs.9000+Rs.2700=Rs.11,700/-
(iii)	1/4 th of (ii) deducted as personal expenses of the deceased=	Rs.11700-Rs.2925=Rs 8775/- per month
(iv)	Compensation after multiplier of 14 is applied	Rs.8775 X 12 X 14= Rs.14,74,200/-
(v)	Loss of consortium to wife	Rs.1,00,000/-
(vi)	Loss of estate	Rs.1,00,000/-
(vi)	Loss of love and affection to three children	Rs.3,00,000/- (Rs. 1 lacs each)
(vii)	Loss of love and affection to parents	Rs.1,00,000/- (Rs. 50,000 each)
(viii)	Funeral charges	Rs.25,000/-
(ix)	Total Compensation awarded	Rs.20,99,200/-
	Enhanced amount of compensation	20,99,200 – 11,42,000=Rs.9,57,200/- (rounded off to Rs.9,57,000)

10. Resultantly, the appeal i.e FAO No. 5262 of 2013 filed by the

Insurance Company is dismissed and the appeal i.e FAO No. 4500 of 2013 filed by the claimants-appellants is allowed to the above extent. The enhanced amount of compensation of Rs.9,57,000/- (in FAO No. 4500 of 2013) 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.

December 04, 2015

G Arora

(***RITU BAHRI***)

JUDGE