

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

**FAO No.3919 of 2014 (O&M)
Date of decision: 06.10.2015**

Neetu and others

....Appellants

Versus

Jaswant and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Divya Sarup, Advocate
for the appellants.

Mr. Rohit Goswami, Advocate
for Mr. Vinod Chaudhri, Advocate
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, Hisar (hereinafter referred to as 'the Tribunal') vide award dated 23.09.2013, on account of death of Bullock and Manju in a motor vehicular accident which took place on 08.05.2012.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 08.05.2012, Manju (deceased) and her husband-Baljeet were coming back from their fields to their house on their bullock-cart after finishing their work

in fields and were on katcha berm of the road; that at about 05:00 p.m., when they reached near the fields of Sukh Lal on Hisar-Balsmand Road, then in the meantime, a truck bearing registration No.HR-57-2442, driven by respondent No.1 in a rash and negligent and in a zig-zag manner, at a very speed without following the mandatory traffic rules, came from Balsmand side and hit into the bullock-cart by coming on the wrong side on katcha berm. As a result of which, Ms. Manju and the bullock received serious, grievous and multiple injuries. Thereafter, Baljeet took Manju to Sarvodaya Hospital, Hisar, where doctor referred her to Gneral Hospital, Hisar and there doctor declared her dead and post-mortem examination was conducted upon her. Whereas, post-mortem upon the bullock was conducted by Dr. J.C. Godara, H.V.S.-I, Government Veterinary Hospital, Balsmand, District Hisar.

In this regard, FIR No.365 dated 08.05.2012, in respect of the accident in question was got registered at Police Station Sadar, Hisar.

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

COMPENSATION ASSESSED BY THE MACT

Before the Tribunal, Baljeet appeared as PW-3 and tendered his affidavit Ex.PW3/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-3-Baljeet 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 Jaswant-respondent No.1. The claim petition was accepted by the Tribunal and a sum of Rs.7,16,000/- was awarded as compensation on account of death of Manju along with future interest at the rate of 7.5% per annum from the date of filing of the petition till its realization.

The monthly income of the deceased was assessed at Rs.4,000/- per month, out of which 1/4th amount was deducted towards personal expenses. The dependency of claimants, thus, came to Rs.3,000/- per month, which came to Rs.36,000/- per annum. Manju (deceased) was 35 years of age at the time of the accident/death and the multiplier of 16 was applied. Thus, the claimants were found entitled to compensation of Rs.5,76,000/-. In addition to it, further compensation of Rs.15,000/- was awarded towards transportation, funeral expenses, Rs.1,25,000/- in respect of loss of love and affection. Hence, the claimants were found entitled to total compensation of Rs.7,16,000/-.

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.

Keeping in view the Price Index for the year 2012, the income of the deceased has to be taken as Rs.4,500/- per month. Further, in terms of the judgment ***“Paramjit Singh and another vs. Dilbagh Singh @ Bagga and other”*** 2014 (4) AICJ 65, the concept of deduction cannot be applied in the present case while calculating the notional income of the housewife. The entire income of the deceased should be taken as dependency of the claimants-appellants. So, the income of the deceased is taken as Rs.4,500/- per month.

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.4,500/- x 12)	Rs.54,000/-
(iv)	Compensation after multiplier of 16 is applied	(Rs.54,000/- x 16) =Rs.8,64,000/-
(vi)	Loss of consortium to husband	Rs.1,00,000/-
(vii)	Loss of love and affection to minor children	Rs.4,00,000/- (Rs.1,00,000/- each)
(viii)	Funeral expenses	Rs.25,000/-
(ix)	TOTAL COMPENSATION TO BE AWARDED	Rs.13,89,000/-
(x)	Enhanced amount of compensation	(Rs.13,89,000/-) – (Rs.7,16,000/-) =Rs.6,73,000/-

The enhanced amount of compensation of **Rs.6,73,000 /-** 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

06.10.2015
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