

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3988 of 2014

Date of Decision: 17.12.2015

Sukhwinder Kaur and Others

.....appellants

Vs.

Amrik Singh and Others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Mayur Kanwar, Advocate for the appellants.

Ms.Sonal Datta, Advocate for

Mr.Vikas Mohan Gupta, 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, Patiala (hereinafter referred to as 'the Tribunal') vide award dated 24.02.2014 on account of death of Gurnam Singh in a vehicular accident, husband and father of the claimants.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 11.04.2013 deceased Gurnam Singh was going on motorcycle bearing registration No.PB-11-AM-3353 on the correct left hand side of the road, at a moderate speed, from his office to his house on the Samana-Patran road. At about 7/7:30 pm, when he reached near the link road leading to Khalsa Colony, Samana, a Max Pick up Jeep bearing registration No.PB-11-AT-9827 came from Patran side, which was being driven by respondent No.1 in a very high speed, rash and negligent manner, without observing the traffic rules and struck against the motorcycle of the deceased. As a result thereof, Gurnam Singh fell down on the road and received multiple, simple and grievous injuries on his body. The motorcycle of the deceased was also badly damaged in the accident.

The deceased was taken to Rejendra Hospital, Patiala, where he succumbed to the injuries suffered by him in the accident. The accident was witnessed by Jaswinder Singh son of Sukhdev Singh of village Kuthakheri, Tehsil Rajpura. The accident took place due to rash and negligent driving of the offending vehicle by respondent No.1. An FIR No.50 dated 12.04.2013 was got registered by Jaswinder Singh against respondent No.1 at Police Station City Samana.

COMPENSATION ASSESSED BY THE MACT

The learned Tribunal on the basis of evidence on record returned to the findings that accident took place on account of rash and negligent driving of respondent No.1. Respondent No.3 examined Dharampal, LDC in the office PSPCL, Samana as RW1. He submitted that deceased was withdrawing salary at Rs.43,059/- per month till March, 2013 as per salary certificate Ex.R1 being an employ of PSPCL. He further submitted that claimant No.1 Sukhwinder Kaur, widow of Gurnam Singh, was drawing the pension of Rs.22037/- per month. The total compensation has been assessed by the learned MACT as under:-

Serial No.	Heads	Calculation
1	Income	Rs.43000/-
2	Deduction (approx.)	Rs.43000-14,000=Rs.29,000/-
3	Deduction (pension)	Rs.29,000/-- 22,000/-=Rs.7,000/-
4	Multiplier (age 11 years)	Rs.7,000 X 11= Rs.77,000/-
5	Annual Income	Rs.77,000 X 12=Rs.9,24,000/-
6	Funeral expenses	Rs.20,000/-
	Total	Rs.9,44,000/-

REASSESSED COMPENSATION

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

The fact of the accident is admitted and proved. The deceased died as a result of the accident.

So far as monthly pension is concerned, a reference has been made by

Transport 2007(8) SCC 319 and gave further reference of **Mrs.Helen C.Rebello and others Vs. Maharashtra State Road Transport Corporation and another 1998(4) RCR (Civil) 177: AIR 1998 3191**, wherein, family pension is earned by an employee for the benefit of receivable by the heirs after his death. The heirs receive family pension even otherwise than the accidental death. Family pension amount paid to the family cannot be deducted while calculating the compensation awarded to the claimants. In view of this the appeal is allowed. The order of deduction of the family pension is set aside.

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 Verma 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:-

<i>Sr. No.</i>	<i>HEADS</i>	<i>CALCULATION</i>
	Income	Rs.43,000/- X 12= Rs.5,16,000/-
2	Future prospect (15% of 1)	Rs.5,16,000/- +77400/- =5,93,400/-
3	Income tax deduction (30% according to slab)	Rs.5,93,400/-- Rs.1,78,020/- =Rs.4,15,380
4	1/3 th deduction as dependents are three in number	[Rs.4,15,380/- -- Rs.1,38,460/-]=Rs.2,76,920/-
5	Multiplier (age 52 years)	[Rs.2,76,920/-X 11]=Rs.30,46,120/-
6	Loss of estate	Rs.1,00,000/-
7	Loss of consortium	Rs.1,00,000/-
8	Love and affection	Rs.1,00,000/-(Rs.50,000/- each)
9	Funeral Expenses	Rs.25,000/-

	Total	Rs.33,71,120/-
	Enhanced amount of compensation	Rs.33,71,120/--Rs.9,44,000/- = Rs.24,27,120/-

The enhanced amount of compensation of Rs.24,27,120/- shall be payable within a period of two months from the date of receipt of certified copy of this order as per ratio applied by the learned Tribunal. 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

17.12.2015
anil