

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

**FAO No.4037 of 2014 (O&M)
Date of decision: 03.12.2015**

Smt. Anguri Devi and others

....Appellants

Versus

Ram Kumar and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. S.K. Yadav, Advocate
for the appellants.

Respondents No.1 and 2 already proceeded
against *ex parte* vide order dated 18.03.2015.

Ms. Swati Batra, Advocate
for respondent No.3.

RITU BAHRI J. (Oral)

CM No.12077-CII of 2014

For the grounds mentioned in the application, the same
is allowed and the delay of 22 days in filing the appeal stands
condoned.

MAIN CASE

This appeal has been filed by the claimants-appellants
seeking enhancement of compensation awarded by Motor
Accident Claims Tribunal, Narnaul (hereinafter referred to as 'the

Tribunal') vide award dated 02.12.2013, on account of death of Rawat Singh in a motor vehicular accident.

FACTS NOT IN DISPUTE

On 21.07.2012, Rawat Singh (deceased) had come in his relation at village Jaunawas, Tehsil Mohindergarh and from there he was going towards Satnali from Satnali turn, Mohindergarh, on a motorcycle bearing No.HR-99-KS(T)-7534, being a pillion rider and when he reached in the area of village Gadarwas between village Dalanwas and Badra, then a dumper bearing No.HR-61-B-0604 was parked by its driver-respondent No.1 on the road in a damaged condition, without indicator, back light, reflector and obstacle on the road and the motorcycle struck against the aforesaid parked dumper from back side. As a result thereof, the driver of the motorcycle and Rawat Singh sustained grievous injuries on their person and Rawat Singh succumbed to his injuries sustained in the accident.

In this regard, FIR No.65 dated 22.07.2012, under Sections 279 and 304-A IPC, in respect of the accident in question was got registered at Police Station Satnali.

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

COMPENSATION ASSESSED BY THE MACT

Before the Tribunal, Rishal Singh (eye-witness) appeared as PW-4 and tendered his affidavit Ex.PW-4/A to prove

the accident in question. PW-5-Balbir (brother-in-law of deceased) also tendered in evidence his affidavit Ex.PW-5/A, to prove the accident in question. PW-2, EHC Satbir Singh, had brought the FIR register of Police Station Satnali, before the Tribunal and has deposed that as per the record, FIR, in question, was got registered on the statement of Balbir Singh-PW-5 and he has proved the copy of FIR as Ex.PA. He has further deposed that after investigation, challan was presented in the Court against Ram Kumar son of Richhpal i.e. respondent No.1.

The claimants have further produced on record the certified copy of charge-sheet as Ex.PB, certified copy of report under Section 173 Cr.P.C. as Ex.PC, copy of post-mortem report as Ex.PD and cash receipt as Ex.PE.

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 statements of witnesses.

Ultimately on the basis of the evidence led by the parties, the Tribunal has come to the conclusion that the accident in question was occurred due to the rash and negligent driving by respondent No.1 and the Tribunal has rightly returned the finding on Issue No.1 in favour of the claimants-appellants.

The claim petition was partly accepted by the Tribunal and a sum of Rs.3,81,878/- was awarded as compensation on account of death of Rawat Singh along with future interest at the

rate of 7½ % per annum from the date of filing of the petition till its realization.

The deceased was getting the pension of Rs.5,483/- per month, out of which 50% amount was deducted towards personal expenses. The dependency of claimants, thus, came to Rs.2,741.50/- per month, which came to Rs.32,898/- per annum. Rawat Singh (deceased) was 54 years of age at the time of the accident/death and the multiplier of 11 was applied. Thus, the claimants were found entitled to compensation of Rs.3,61,878/-. In addition to it, further compensation of Rs.10,000/- was awarded on account of loss of consortium and loss of love and affection and Rs.10,000/- was awarded towards transportation of dead body, funeral expenses and last rites. Hence, the claimants were found entitled to total compensation of Rs.3,81,878/-.

Feeling dissatisfied with the impugned award, the claimants-appellants have preferred the present appeal.

REASSESSED COMPENSATION

Learned counsel for the appellants has submitted that no amount of compensation in respect of future prospects has been awarded by the Tribunal.

On the other hand, learned counsel for respondent No.3 has placed on reliance on the judgment ***“Reshma Kumari and others vs Madan Mohan and another”***, 2013(2) R.C.R. (Civil) 660 and ***“Sarla Verma and others vs. Delhi Transport***

Corporation and another”, 2009 (3) RCR (Civil) 77, to contend that if the deceased is more than 50 years, then, there shall be no addition in respect of future prospects and she further stated at the bar that no future prospects has to be given in case of a pensioner.

I have heard the contention raised by learned counsel for respondent No.3, but do not find any force in that contention as the Hon'ble Supreme Court in case of “***Rajesh and others vs. Rajbir Singh and others***”, 2013 (9) SCC 54, is of the view that in case of self-employed or fixed wage, it will only be just and equitable to provide an addition of 15% in case where the victim is between the age group of 50 to 60 years and thereafter, there shall normally be no addition.

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 re-assessed as under:-

SR. NO.	HEADS	CALCULATIONS
(i)	Annual Income (Rs.5,483 x 12)	Rs.65,796/-
(ii)	15% of (i) above to be added as future prospects (Age 54 years)	(Rs.65,796/-) + (Rs.9,869/-) = Rs.75,665/-
(iii)	Dependency of the claimant after deducting 50% of (ii) towards personal expenses of the deceased	(Rs.75,665/-) - (Rs.37,832) = Rs.37,833/-
(iv)	Compensation after multiplier of 11 is applied	(Rs.37,833/- x 11) =Rs.4,16,163/-
(v)	Loss of estate	Rs.1,00,000/-
(vi)	Loss of consortium	Rs.1,00,000/-
(vii)	Funeral expenses	Rs.25,000/-
(viii)	TOTAL COMPENSATION AWARDED	Rs.6,41,163/-
(ix)	Enhanced amount of compensation	(Rs.6,41,163/-) – (Rs.3,81,878/-) =Rs.2,59,285/-

The enhanced amount of compensation of **Rs.2,59,285/-** 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

03.12.2015
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