

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

FAO No.4095 of 2014 (O&M)

Date of decision: 15.10.2015

Smt. Nirmala and others

.....Appellants

Versus

Shaluddin @ Bobby and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Anil Kumar Gahlawat, Advocate,
for the appellants.

Mr. D.K. Prajapati, Advocate,
for Mr. R.S. Madan, Advocate,
for respondent No. 3-Insurance Company.

Ritu Bahri, J.

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Jhajjar (hereinafter referred to as 'the Tribunal') vide award dated 26.10.2013 on account of death of Dharambir in a vehicular accident, which took place on 17.04.2012. Appellant No.1 is widow, appellant Nos. 2 & 3 are daughters and appellant No.4 is son of deceased-Dharambir.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 17.04.2012, Dharambir (deceased) along with his brother Krishan was going to village Chhuchhakwas. When they reached near Roshan Service Station, Charkhi-Dadri Road, a car (I-20) bearing registration No. HR-19-D-7860, being driven by Shaluddin @ Bobby-respondent No.1 in a rash and negligent manner, came from the side of Charkhi Dadri and hit Dharambir, as a result of which, he received grievous injuries. After the accident, respondent No.1

fled from the spot. Dharambir was shifted to the General Hospital, Jhajjar, from where he was referred to PGIMS, Rohtak, where he succumbed to his injuries on 19.04.2012. With regard to the accident, FIR No.109 dated 17.04.2012, under Sections 279, 337, 304-A IPC was registered at Police Station, Beri. Consequently, the claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

The Tribunal, on the basis of evidence led by the parties, gave finding on issue No.1 in favour of the claimants by observing that the accident took place on account of rash and negligent driving of car bearing registration No. HR-19-D-7860 by Shaluddin @ Bobby-respondent No.1. This finding was based on the deposition of Krishan (PW-1), who was an eye witness of the accident. He had also deposed that he had lodged a report with the police, on the basis of which, FIR (Ex.P8) was registered. The evidence led by the claimants before the Tribunal remained un rebutted. Ultimately, the claim petition was accepted by the the tribunal and a sum of Rs.19,30,000/- was awarded as compensation on account of death of Dharambir along with interest at the rate of 6% per annum from the date of filing of the petition till its realization. In the absence of any proof regarding income of the deceased, his income was assessed as Rs.15,000/- per month, out of which 1/4th amount was deducted towards his personal expenses. The dependency of claimants, thus, came to Rs.11,250/- per month. Annual dependency came to be Rs.1,35,000/-. As per post mortem report (Ex.P4), deceased was 40 years of age at the time of the accident/death and the multiplier of 14 was applied. Thus, the claimants were found entitled to compensation of Rs.18,90,000/-. In addition to it, further compensation of

of loss of consortium and Rs.10,000/- towards loss of estate. Hence the claimants were found entitled to total compensation of Rs.19,30,000/-.

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.

Against the impugned Award, Reliance General Insurance Co. Ltd.-respondent No.3 also preferred an appeal i.e. FAO No.1049 of 2014, which has been dismissed by this Court vide order dated 25.02.2014.

Learned counsel for Insurance Company-respondent No.3 has argued that the matter with regard to grant of future prospects in case of self employed worker(s) has been referred to the larger Bench of Hon'ble Supreme Court. A perusal of index of minimum wages in Punjab and Haryana, shows that there has been consistent rise every year. Therefore, in the present case, future prospects should have been granted while assessing the income of deceased, subject to decision of larger Bench of the Hon'ble Supreme Court.

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**

Judgments 459. Accordingly, the compensation re-assessed as under:-

SR. No.	HEADS	CALCULATION
(i)	Income	Rs.15,000 /- per month
(ii)	50% of (i) above to be added as future prospects	Rs.15,000 + Rs.7500/- = Rs.22,500/-
(iii)	1/4 th of (ii) deducted as personal expenses of the deceased	Rs.22,500 – 5625= Rs.16,875/-
(iv)	Compensation after multiplier of 14 is applied	Rs.16,875 x 12 x 14 = Rs.28,35,000/-
(v)	Loss of consortium	Rs.1,00,000/-
(vi)	Loss of estate	Rs.1,00,000/-
(vii)	Loss of love and affection for children	Rs.3,00,000/- (Rs.1,00,000/- each)
(viii)	Funeral expenses	Rs.25,000/-
(ix)	TOTAL COMPENSATION AWARDED	Rs.33,60,000/-
	Enhanced amount of compensation	Rs.33,60,000 – 19,30,000 = Rs.14,30,000/-

The enhanced amount of compensation of **Rs.14,30,000/-** 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.

15.10.2015
ajp

(RITU BAHRI)
JUDGE