

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

**FAO No.4169 of 2014
Date of decision: 09.12.2015**

Sukhpal Kaur @ Jaspal Kaur and another

....Appellants

Versus

Darshan Kumar Sharma and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ishan Cooner, Advocate
for the appellants.

Respondent No.1-Darshan Kumar Sharma in person.

Mr. Mrigank Sharma, Advocate
for respondent No.2.

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 04.12.2013, on account of death of Lakhwinder Singh in a motor vehicular accident.

FACTS NOT IN DISPUTE

On 09.06.2012, Lakhwinder Singh (since deceased)

was going from Patiala to village Brass while driving motorcycle bearing registration No.PB-72-2936 on the correct left side of the road and Gurpreet Singh was pillion rider. One more motorcycle was going ahead of the motorcycle of Lakhwinder Singh in the same manner. Jaswinder Singh and Rajbir Singh were following the motorcycle of Lakhwinder Singh on separate motorcycle. At about 04:00 p.m., when they reached within the revenue limits of village Mavi Kalan near the field of Kashmir Singh on Patiala-Patran road, a swift car bearing registration No.PB-11-AR-2773, was seen coming from the opposite side which was being driven by its driver in a rash, negligent and zig-sag manner. On seeing the car, all the motorcycles took their respective motorcycles on their extreme left side of road on kachha berm. After covering a distance of about 100 yards from Prem Singh Wala turn the said car leaving its correct left side went on its extreme wrong side by covering distance of 35 ft. and firstly, it hit against the motorcycle going ahead of the motorcycle of Lakhwinder Singh and inspite of that respondent No.1-Darshan Kumar could not control and then further hit against the motorcycle of Lakhwinder Singh after covering distance of more than 60 yards hit against the motorcycle driven by Gurpreet Singh. As a result of which, both Lakhwinder Singh and Gurpreet Singh suffered multiple and grievous injuries and their motorcycles were completely damaged. Jaswinder Singh and Rajbir Singh were following them. After seeing the serious

condition of both the injured Darshan Singh who was also identified at the spot fled away from the spot. Both the injured succumbed to the injuries at the spot.

In this regard, FIR No.85 dated 09.06.2012, under Sections 304-A, 337 and 427 IPC, in respect of the accident in question was got registered at Police Station Samana, at the instance of Jaswinder Singh.

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

COMPENSATION ASSESSED BY THE MACT

Before the Tribunal, Jaswinder Singh (eye-witness) appeared as PW-2 and tendered his affidavit Ex.PW-2/A to prove the accident in question. The claimants have also placed on record the copy of FIR Ex.PW-2/B, post-mortem Ex.P-2, copy of charge-sheet Ex.P-4, copy of final report under Section 173 Cr.P.C. Ex.P-5. Ultimately, on the basis of evidence led by the parties, 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.7,01,000/- was awarded as compensation on account of death of Lakhwinder Singh 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.6,000/- per month, out of which 1/3rd amount was deducted towards personal expenses. The dependency of claimants, thus, came to Rs.4,000/- per month, which came to Rs.48,000/- per annum. Lakhwinder Singh (deceased) was 32 years of age at the time of the accident/death and the multiplier of 12 was applied. Thus, the claimants were found entitled to compensation of Rs.5,76,000/-. In addition to it, further compensation of Rs.1,00,000/- was awarded towards consortium and Rs.25,000/- in respect of funeral expenses. Hence, the claimants were found entitled to total compensation of Rs.7,01,000/-.

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.

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.72,000/-
(ii)	50% of (i) above to be added as future prospects (Age 32 years)	(Rs.72,000/-) + (Rs.36,000/-) = Rs.1,08,000/-
(iii)	Dependency of the claimant after deducting 1/3rd of (ii) towards personal expenses of the deceased	(Rs.1,08,000/-) - (Rs.36,000) = Rs.72,000/-
(iv)	Compensation after multiplier of 16 is applied	(Rs.72,000/- x 16) =Rs.11,52,000/-
(v)	Loss of consortium	Rs.1,00,000/-
(vi)	Loss of estate	Rs.1,00,000/-
(vii)	Loss of love and affection for minor children	Rs.1,00,000/-
(viii)	Funeral expenses	Rs.25,000/-
(ix)	TOTAL COMPENSATION AWARDED	Rs.14,77,000/-
(x)	Enhanced amount of compensation	(Rs.14,77,000/-) – (Rs.7,01,000/-) =Rs.7,76,000/-

The enhanced amount of compensation of **Rs.7,76,000/-** 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

09.12.2015
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