

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

FAO No.4957 of 2013 (O&M)

Date of decision: 21.09.2015

Smt. Karamjit Kaur and others

.....Appellants

Versus

Gurdeep Singh alias Kuldeep Singh and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

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

Mr. K.S. Kahlon, Advocate,
for respondent No.1.

Mr. Pradeep Kumar, Advocate,
for respondent No.3.

Mr. G.P. Vashisht, Advocate,
for respondent No.4.

Ms. Vandana Malhotra, Advocate,
for respondent No.6.

None for respondent Nos.7 and 8.

Ritu Bahri, J.

CM No.20997-CII of 2013

For the reasons mentioned in the application, same is allowed and
delay of 38 days in filing the appeal is condoned.

FAO No.4957 of 2013

This appeal has been filed by the claimants-appellants seeking
enhancement of compensation awarded by Motor Accident Claims Tribunal,
Moga (hereinafter referred to as 'the Tribunal') vide award dated 24.04.2013
on account of death of Iqbal Singh in a vehicular accident, which took place

daughters and proforma respondent Nos.7 and 8 are parents of deceased Iqbal Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 11.12.2010, Iqbal Singh was going from Pathankot to Chandi Mandir by driving a Military Gypsy No. 10B105934K. Colonel Dinesh Chander Dubey, his wife Smt. Namika Dubey, their daughters Samriti & Samridhi and Ravinder Kumar son of Ram Saroop were also travelling in the said gypsy. At about 7.40 A.M., when they reached near Nariala on Hoshiarpur-Garhshankar road, a truck bearing registration No. PB-08-M-9705, being driven by respondent No.4-Inderjit Singh in a rash and negligent manner, came from behind and struck against the gypsy. Another truck bearing registration No. PB-07-N-9251, being driven by respondent No.1-Gurdeep Singh alias Kuldeep Singh in a rash and negligent manner, came from opposite side and hit the gypsy, as a result of which, Iqbal Singh-driver of gypsy, Colonel Dinesh Chander Dubey, his wife Namika Dubey and their daughter Samriti received multiple injuries and died at the spot. The accident was witnessed by HC Lakhwinder Singh, PHG Prem Chand and other persons, who were present there. The Military Gypsy was badly damaged. The accident had occurred due to rash and negligent driving of Truck No.PB-08-M-9705 by respondent No.4-Inderjit Singh and Truck No.PB-07-N-9251 by respondent No.1-Gurdeep Singh alias Kuldeep Singh. Consequently, the claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

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 of trucks bearing registration No.PB-07-N-9251 and PB-08-M-9705 by Gurdep Singh alias Kuldeep Singh-respondent No.1 and Inderjit Singh-respondent No.4 respectively. This finding is based on the deposition of HC Lakhwinder Singh (PW-2), who was an eye witness of the accident and on whose statement, FIR (Ex.P1) was recorded. This witness had informed the police about the accident. His deposition remained unchallenged. The drivers and owners of both the offending trucks did not step into the witness box. The claim was considered keeping in view the salary of deceased-Iqbal Singh, who was employed with Indian Army as driver. As per salary certificate, he was drawing salary of Rs.18,000/- per month after deducting allowances etc., out of which 1/4th amount was deducted towards personal expenses. The dependency of claimants, thus, came to Rs.13,500/- per month approximately, which came to Rs.1,62,000/- per annum. Iqbal Singh (deceased) was less than 31 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.25,92,000/-. In addition to it, further compensation of Rs.10,000/- was awarded towards funeral expenses and Rs.10,000/- as loss of consortium to the widow. Hence the claimants were found entitled to total compensation of Rs.26,12,000/- along with interest at the rate of 9% per annum from the date of filing of the petition till its realization.

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	CALCULATION
(i)	Annual Income as per salary certificate	Rs.26,000/- x 12 = Rs.3,12,000/-
(ii)	Annual income after deduction of income tax	Rs.3,12,000 – 15000 = 2,97,000/-
(iii)	50% of (ii) above to be added as future prospects (Age 31 years)	Rs.2,97,000 + Rs.1,48,500 = Rs.4,45,500/-
(iv)	1/5 th of (iii) deducted as personal expenses of the deceased	Rs.4,45,500 – 89,100 = Rs.3,56,400/-
(v)	Compensation after multiplier of 16 is applied	Rs.3,56,400 x 16 = Rs.57,02,400/-
(vi)	Loss of estate	Rs.1,00,000/-
(vii)	Loss of consortium for widow	Rs.1,00,000/-
(viii)	Loss of love and affection for minor children	Rs.4,00,000/- (Rs.1,00,000/- each)
(ix)	Funeral expenses	Rs.25,000/-
(x)	TOTAL COMPENSATION AWARDED	Rs.63,27,400/-
	Enhanced amount of compensation	Rs.63,27,400 – 26,12,000 = Rs.37,15,400/-

The enhanced amount of compensation of **Rs.37,15,400/-** 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.

21.09.2015
ajp

(RITU BAHRI)
JUDGE