

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

**FAO No.5046 of 2013
Date of decision: 03.12.2015**

Sajjan Singh and others

....Appellants

Versus

Sher Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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

Mr. S.S. Sidhu, Advocate
for respondent No.3.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as 'the Tribunal') vide award dated 10.07.2013, on account of death of Sarita Devi in a motor vehicular accident.

FACTS NOT IN DISPUTE

On 08.03.2012, Smt. Sarita Devi along with her husband Sajjan Singh was going to village Nehrugarh from her village Nautana on a motorcycle bearing No.HR-36-H-8900 and

the said motorcycle was being driven by Sajjan Singh, at a moderate speed, on correct left hand side of the road, by observing the rules of the traffic and at about 04:00 p.m., when they reached near village Lukhi mor, then a truck bearing No.HR-55-K-2335, which was being driven by respondent No.1 at a very high speed, in a rash, negligent and zig-zag manner and without observing the rules of the traffic came from opposite side and the respondent No.1 could not control his truck and steered on wrong side and hit against the motorcycle. As a result thereof, they both fell down and Smt. Sarita Devi sustained multiple as well as fatal injuries on her head and other parts of her body.

In this regard, FIR No.44 dated 08.03.2012, under Sections 279 and 304-A IPC, in respect of the accident in question was got registered at Police Station Kosli, District Rewari.

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

COMPENSATION ASSESSED BY THE MACT

Before the Tribunal, Sajjan Singh husband of the deceased (eye-witness) appeared as PW-1 and tendered his affidavit Ex.PW-1/A to prove the accident in question. Omdev also appeared as PW-2 and tendered his affidavit Ex.PW-2/A to corroborate the version of PW-1-Sajjan Singh.

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 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.3,08,000/- was awarded as compensation on account of death of Sarita Devi along with future interest at the rate of 7½ % per annum from the date of filing of the petition till its realization.

The monthly income of the deceased was assessed at Rs.1,500/- per month. Sarita Devi (deceased) was 35 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.2,88,000/-. In addition to it, further compensation of Rs.10,000/- was awarded on account of loss of consortium and Rs.10,000/- was awarded towards funeral expenses and last rites. Hence, the claimants were found entitled to total compensation of Rs.3,08,000/-.

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.

Keeping in view the Price Index for the year 2013, the income of the deceased has to be taken as Rs.3,000/- per month. Further, in terms of the judgment **“Paramjit Singh and another vs. Dilbagh Singh @ Bagga and other” 2014 (4) AICJ 65**, the concept of deduction cannot be applied, while calculating the notional income of the housewife and the entire income of the deceased should be taken as dependency of the claimants-appellants. So, the income of the deceased is taken as Rs.3,000/- per month.

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, Munna Lal Jain and another vs. Vipin Kumar Sharma and others, 2015(3) Recent Apex Judgments 459 and Amrit Bhanu Shali and others vs National Insurance Company Limited and others, 2012 ACJ 2002**. Accordingly, the compensation is re-assessed as under:-

SR. NO.	HEADS	CALCULATIONS
(i)	Annual Income (Rs.3,000 x 12)	Rs.36,000/-
(ii)	Compensation after multiplier of 12	(Rs.36,000/- x 12) =Rs.4,32,000/-
(iii)	Loss of consortium	Rs.1,00,000/-
(iv)	Loss of love and affection to children	Rs.1,00,000/- (Rs.50,000/- each)

(v)	Funeral expenses	Rs.25,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.6,57,000/-
(vii)	Enhanced amount of compensation	(Rs.6,57,000/-) – (Rs.3,08,000/-) =Rs.3,49,000/-

The enhanced amount of compensation of **Rs.3,49,000/-** 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

03.12.2015
yakubs