

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

FAO No.5051 of 2013 (O&M)

Date of decision: 13.08.2015

Lal Singh and another

.....Appellants

Versus

Haroon and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ram Bilas Gupta, Advocate,
for the appellants.

Mr. Gaurav Gupta, Advocate,
for respondent No.6.

Ritu Bahri, J.

CM No.21337-CII of 2013

For the reasons mentioned in the application, same is allowed and delay of 51 days in filing the appeal is condoned.

FAO No.5051 of 2013

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Faridabad (hereinafter referred to as 'the Tribunal') vide award dated 21.03.2013 on account of death of Ram Khiladi in a vehicular accident, which took place on 24.03.2012. Appellants are parents of deceased Ram Khiladi.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 24.03.2012, Ram Khiladi along with Bindesh Kumar and Manish Kumar was taking empty oxygen gas cylinders from Shahajahan Video Company to Faridabad in a Canter bearing

registration No.HR-38-J-8789. At about 3.00 P.M., when they reached near

Sabi Pul in the area of Shani Mandir, Dungarwas, a truck was standing on the road which was causing obstruction in the traffic. When their canter reached near the said truck, in the meantime, another truck bearing registration No. HR-67-A-0411, being driven by respondent No.1-Haroon in a very rash and negligent manner, came and struck against the driver side of canter from behind, as a result of which, occupants of the canter received multiple injuries. The injured were shifted to Apex Hospital, Dharuhera, Ram Khiladi was declared dead. With regard to the accident, FIR No.114 under Sections 283, 337, 304-A IPC was registered at Police Station, Dharuhera, District Rewari. 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, particularly the testimony of eye witness namely Bindesh Kumar (PW-1), the Tribunal came to a conclusion that the accident was caused on account of composite negligence of respondent Nos. 1 and 5. Respondent No.1-Haroon had dangerously parked his truck in the middle of the road obstructing the traffic, therefore, he was held negligent to the extent of 60%, whereas respondent No.5-Ravi was held negligent to the extent of 40% for causing the aforesaid accident. As per deposition of Vinod, owner of the canter (PW-1), deceased-Ram Khiladi was working as cleaner/helper on his canter bearing registration No. HR-38-J-8789 and he used to pay him salary to the tune of Rs.6500/- per month. In the absence of any evidence regarding employment and payment of salary, the Tribunal has assessed the salary of deceased as Rs.4000/- per month. Rs.500/- were added as future prospects.

Average income of the deceased was taken to be Rs.4500/- per month,

which came to Rs.54,000/- (4500 x 12) per annum. 50% of the amount was deducted towards personal expenses of the deceased as he was bachelor. The dependency of claimants, thus, came to Rs.27,000/- per annum. Keeping in view the age of parents between 53 to 55 years, multiplier of 11 was applied. Thus, the claimants were found entitled to compensation of Rs.2,97,000/- (27,000 x 11). In addition to it, further compensation of Rs.5000/- was awarded towards funeral expenses and Rs.5000/- towards loss of estate. Hence the claimants were found entitled to total compensation of Rs.3,07,000/-.

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.

The first question for consideration in the present appeal would be, whether the income of an helper in the year 2012 would be Rs.4000/- per month. In a claim petition under the Motor Vehicle Act, a helper would fall in the category of skilled labour and his minimum wage in the year 2012-13 can be taken to be Rs.5000/- 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 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)	Income	Rs.5000/- per month
(ii)	50% of (i) above to be added as future prospects	Rs.5000 + Rs.2500 = Rs.7500/-
(iii)	50% of (ii) deducted as personal expenses of the deceased	Rs.7500 - 3750 = Rs.3750/-
(iv)	Compensation after multiplier of 18 is applied	Rs.3750 x 12 x18 = Rs.8,10,000/-
(v)	Loss of love and affection for the parents	Rs.1,00,000/-
(vi)	Funeral expenses	Rs.25,000/-
(xii)	TOTAL COMPENSATION AWARDED	Rs.9,35,000/-
	Enhanced amount of compensation	Rs.9,35,000 – 3,07,000 = Rs.6,28,000/-

The enhanced amount of compensation of **Rs.6,28,000/-** 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.

13.8.2015
ajp

(RITU BAHRI)
JUDGE