

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO No. 5073 of 2013 (O&M)

Date of decision : August 24, 2015

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Jagdish Chander and another

.....Appellants

Versus

Satish Kumar and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Namit Sharma, Advocate for the appellant.

Mrs. Suman Devi, Advocate for respondent no.1.

Mr. Ashok Murtheja, DAG, Haryana for respondent no.2.

Mr. Binat Sharma, Advocate for respondent no.3.

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1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

RITU BAHRI, J

C.M No. 21433-CII of 2013

For the reasons mentioned in the application which is accompanied by an affidavit, delay of 18 days in filing the appeal is condoned.

C.M is allowed.

FAO No. 5073 of 2014

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal') vide award dated 5.4.2013 on account of death of Punit, son of the claimants-appellants.

FACTS NOT IN DISPUTE

The brief facts of the case are that on 13.11.2010 at about 6.00 a.m, Punit had gone to Railway Station, Karnal on his motor cycle bearing registration no. HR-05P-1806 to drop his father at Railway Station, who was going to Delhi to distribute invitation cards of the marriage of Punit. Sanjeev Kumar, brother of Punit had also gone to Railway Road for his personal work on his motor cycle along with his uncle Krishan Gopal. At 6:30 am, Punit after dropping his father at railway station was coming back to his house. Sanjeev and his uncle were also coming from the railway station side behind the motor cycle of Punit. When Punit reached on the road in front of S.D Model School, Karnal, in the meantime, a Haryana Roadways Bus bearing No. HR-64-1808 being driven in a rash and negligent manner by respondent no.1 came from behind and hit the motor cycle of Punit, as a result of which the accident in question took place. Punit fell down on the road and sustained multiple and grievous injuries. He died at the spot. In this regard, FIR No. 877 dated 13.11.2010 under Sections 279 and 304-A of Indian Penal Code was lodged against respondent no.1.

COMPENSATION ASSESSED BY THE MACT

On account of death of Punit, his parents Jagdish Chander and Shashi Gupta filed claim petition under Sections 166 and 140 of the Motor Vehicles Act, 1988, which was accepted partly by the Tribunal and a sum of **Rs.10,17,880/-** was awarded as compensation on account of death of Punit. The monthly income of the deceased was assessed at Rs. 7200/- per month. Thirty per cent increase on account of future prospects in income was allowed and thus the net monthly income of the deceased was taken as Rs. 9360/-. Fifty per cent amount was deducted towards personal and living expenses. The dependency of claimants, thus, came to Rs.4680x12=Rs.56,160/- per annum. Punit was presumed to be 21 years of age at the time of the accident and hence the multiplier of 18 was applied. Thus, the claimants were found entitled to compensation of Rs.10,10,880/-. In addition to it, further compensation of Rs.2,000/- towards loss of love and affection and Rs.5000 towards funeral expenses was awarded. Hence the claimants were found entitled to total compensation of **Rs. 10,17,880/-**.

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. The

deceased 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 is re-assessed as under:-

<i>Sr. No.</i>	<i>HEADS</i>	<i>CALCULATION</i>
(I)	Income	Rs.7200/- per month
(ii)	50% of (i) above to be added as future prospects	[Rs.7200/-+Rs.3600/-] Rs. 10,800/- per month
(iii)	50% of (ii) deducted personal expenses of the deceased	[Rs.10800/-]- [Rs.5400/-] =Rs.5400/- per month
(iv)	Compensation after multiplier of 18 was applied	[Rs.5400/-x12x18] Rs.11,66,400/-
(v)	Loss of love and affection for parents	Rs.1,00,000/- (Rs.50,000/- for each parent)
(vi)	Loss of estate	Rs.1,00,000/-
(vii)	Funeral expenses	Rs.25,000/-
	TOTAL COMPENSATION AWARDED	Rs.13,91,400/-
	Enhanced amount of compensation	(Rs.13,91,400/-)- (Rs.10,17,880/-) =Rs.3,73,520/-

The enhanced amount of compensation of **Rs.3,73,520/-** 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.

August 24, 2015
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(RITU BAHRI)
JUDGE