

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

F.A.O No. 4473 of 2014

Date of decision:- 22.09.2015

Birmati alias Bira Devi

...Appellants

Versus

Ravi Kumar and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Ramender Chauhan, Advocate
for the appellants

Mr. Sumit Sangwan, Advocate
for respondent No.1 and 2

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RITU BAHRI J. (Oral)

1. The present appeal has been preferred by the claimant-appellant (for short 'the appellant'), against award dated 20.09.2013 passed by the learned Motor Accident Claims Tribunal, Bhiwani (for short, 'the Tribunal') to the tune of Rs.3,26,800/-.

FACTS NOT IN DISPUTE

2. On 12.12.2010, Baljeet (since deceased) was coming back

from his fields after performing agricultural works and was being followed by his elder brothers Sanjay, Mukesh and Raveen and when they reached near village pond, respondent No. 1 was driving his tractor No. HR-19-C-8764 in a rash and negligent manner and hit Baljeet, who was walking on the kachcha path, due to which he fell down and respondent No. 1 crushed him beneath the tyres of his truck and ran away from the spot. The above said Sanjay, Mukesh and Raveen shifted Baljeet to Civil Hospital, Charkhi Dadri and during treatment, he died. On the statement of Sanjay, F.I.R No. 442 under Sections 279/304-A IPC was registered against respondent No. 1.

3. The learned counsel for the claimant-appellant contends that the compensation awarded by the learned Tribunal is on the lower side and deserves to be enhanced, in view of the judgment ***"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', Asha Verman and others vs. Maharaj Singh and others, 2015(2) RCR (Civil) 520 and Kalpanaraj and others v. Tamil Nadu State Transport Corporation, 2015(2) SCC (Civil) 193.***

4. On the other hand, the learned counsel for the respondent

has vehemently opposed the present appeal.

5. I have heard learned counsel for the parties and perused the record.

COMPENSATION ASSESSED BY MACT

6. The learned tribunal did not accept the deposition of the mother of the deceased (who was 23 years old) that the monthly income of the deceased was Rs.15,000/- as the claimant has failed to produce any documentary evidence that the deceased was earning Rs.15,000/- per month and thus the Tribunal took the income of the deceased as Rs.4800/- per month and his annual dependency comes to Rs.57600 and 50% was deducted towards personal expenses and the amount comes to Rs.28800/-. The multiplier of 11 was applied and Rs.10,000/- was awarded towards funeral expenses and transportation of dead body. The total compensation of Rs.3,26,800/- was awarded to the claimant.

RE-ASSESSED COMPENSATION

7. It is not in dispute that the offending vehicle was fully insured from the Insurance company.

8. Following the ratio of law laid down by Hon'ble the Supreme Court in the above mentioned judgments, the compensation has to be re-assessed as follows:-

Sr. No.	Heads	Calculations
(i)	Salary	Rs.4800/- per month
(ii)	50% of (i) above to be added as future prospects=	Rs.4800+Rs.2400=Rs.7200/- per month
(iii)	1/2 of (ii) deducted as personal expenses of the deceased=	Rs.7200-Rs.3600=Rs.3600 per month
(iv)	Compensation after multiplier of 18 is applied	Rs.3600 X 12 X 18= Rs.7,77,600/-
(v)	Loss of estate	Rs.50,000/-
(vi)	Loss of love and affection to parents	Rs.50,000/-
(vii)	Funeral charges	Rs.25,000/-
(viii)	Total Compensation awarded	9,02,000/-
	Enhanced amount of compensation	Rs.9,02,000-Rs.3,26,800=Rs.5,75,800/-

9. Resultantly, the enhanced amount of compensation of Rs.5,75,800/- shall be payable within a period of forty five days 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 a 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.

10. With the aforesaid modification in the impugned award, the appeal is allowed to the above extent.

22.09.2015

G Arora

(RITU BAHRI)

JUDGE

GAURAV ARORA
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I attest to the accuracy and
integrity of this document