

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

FAO No.5215 of 2013 (O&M)

Date of decision: 24.09.2015

Dildar

.....Appellant

Versus

Amin and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

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

Mr. Neeraj Khanna, Advocate,
for respondent No.3-Insurance Company.

Ritu Bahri, J.

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Faridabad (hereinafter referred to as 'the Tribunal') vide award dated 04.04.2013 on account of death of his wife namely Razia in a vehicular accident.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 14.05.2012, Razia (deceased) along with her elder brother-in-law, Dilawar, was going from village Bhuapur to Jalalpur, District Mathura on a motorcycle bearing registration No. UP-85-Y-2721. Dilawar was driving the said motorcycle, whereas Razia was a pillion rider. When they reached near village Alhapur, Tehsil and District Faridabad, Dilawar stopped the motorcycle at kacha path, as the deceased had asked for urine. Thereafter, when she again tried to sit on the motorcycle, in the meantime, a truck bearing registration No. HR-47-F-

manner, came from the backside and struck against their motorcycle, as a result of which, Dilawar fell down on *kacha path* of the road, whereas deceased-Razia fell on the road and sustained multiple and grievous injuries. The driver-respondent No.1 fled away after leaving his truck at the spot. Razia was taken to Om Spero Hospital, Palwal, where she remained admitted as indoor patient and ultimately, succumbed to the injuries on 16.05.2012. With regard to the accident, FIR No.216 dated 16.05.2012, under Sections 279/304-A IPC was registered at Police Station City, Palwal. Consequently, the claimant-appellant filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

The Tribunal, on the basis of evidence led by the parties, came to a conclusion that the accident was caused on account of rash and negligent driving of truck bearing registration No. HR-47-F-0997 by driver-respondent No.1-Amin. This finding is rightly based on the deposition of Dilawar, eye witness (PW-5), on whose statement the FIR was registered. Parveen Kumar Bansal, Ahlmad in the Court of Chief Judicial Magistrate, Palwal, appeared as PW-6 and deposed that accused-Amin had been charge sheeted on 03.10.2012. Ultimately, the claim petition was accepted by the Tribunal and a sum of Rs.4,36,162/- was awarded as compensation on account of death of Razia along with interest at the rate of 7½ % per annum from the date of filing of the petition till its realization. The deceased was a housewife and value of her services as housewife was assessed at Rs.3000/- per month i.e. Rs.36,000/- per annum. 50% of the notional income was deducted towards personal expenses of the deceased as her husband was the only claimant. Loss of dependency was taken to be Rs.18,000/- per annum.

As per the postmortem report (Ex.P11), Razia (deceased) was 22 years of age at the time of the accident/death and the multiplier of 18 was applied. Thus, the claimant was found entitled to compensation of Rs.3,24,000/-. In addition to it, Rs.5000/- were awarded towards loss of consortium, Rs.5000/- towards loss of estate and Rs.5,000/- were awarded towards funeral expenses. Further, a sum of Rs.97,162/- was awarded towards treatment charges of the deceased. Hence the claimant was found entitled to a total compensation of Rs.4,36,162/-.

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. A Division Bench of this Court in **Paramjit Singh and another Vs. Dilbagh Singh alias Bagga and others**, FAO No.3310 of 2012 (decided on 16.05.2013), has held that while calculating the notional income of a housewife, the entire income should be taken as dependency of the legal heirs without applying any cut, much less 1/3rd. In this judgment, the view taken by learned Single Judge of this Court in **Dayal Singh and others Vs. Hardip Singh and others**, FAO No.832 of 1986 (decided on 11.11.2008), was upheld.

Applying the above said principle to the facts of the present 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 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:-

SR. No.	HEADS	CALCULATION
(i)	Income/value of the services of the deceased as housewife.	Rs.3000/- per month
(ii)	Compensation after multiplier of 18 is applied	Rs.3000 x 12 x 18 = Rs.6,48,000/-
(iii)	Loss of estate	Rs.1,00,000/-
(iv)	Loss of consortium	Rs.1,00,000/-
(v)	Treatment charges of deceased	Rs.97,162/-
(xi)	Funeral expenses	Rs.25,000/-
(xii)	TOTAL COMPENSATION AWARDED	Rs.9,70,162/-
	Enhanced amount of compensation	Rs.9,70,162 – 4,36,162 = Rs.5,34,000/-

The enhanced amount of compensation of **Rs.5,34,000/-** 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.

24.09.2015
ajp

(RITU BAHRI)
JUDGE