

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

FAO No.5407 of 2013 (O&M)

Date of decision: 17.11.2015

Minakshi Devi and others

.....Appellants

Versus

Sarip and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

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

Mr. Manoj Kaushik, Advocate,
for respondent Nos. 1 to 3.

Mr. Nitin Mittal, Advocate,
for Mr. Amrinder Sidhu, Advocate,
for respondent No.4-Insurance Company.

Ritu Bahri, J.

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Faridabad (hereinafter referred to as 'the Tribunal') vide award dated 01.04.2013 on account of death of Rajesh Kumar in a vehicular accident, which took place on 19.04.2011. Appellant No.1 is widow, appellant Nos. 2 is daughter, appellant No.3 is son and appellant Nos.4 and 5 are parents of deceased-Rajesh Kumar.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 19.04.2011, Rajesh Kumar (deceased) along with his colleague Kamal Singh was going from Nuh to Faridabad on a motorcycle bearing registration No. HR-51-AA-0402. The deceased was driving the said motorcycle. When they reached near village

Pondari Mod with a little distance towards village Mindkola in front of

Bhawani Brick Kiln, a dumper bearing registration No. HR-38-N-6178 being driven by Sarip-respondent No.1 in a rash and negligent manner, came from behind at a high speed and struck against the motorcycle of Rakesh Kumar, as a result of which, the pillion rider fell down away from the road, however, Rakesh Kumar came under the front tyre of the dumper and died at the spot. Postmortem of the deceased was conducted at Government Hospital, Palwal. With regard to the accident, FIR No.110 dated 19.04.2011, under Sections 279, 304-A, 427 IPC was registered at Police Station, Hathin. Consequently, the claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

The Tribunal, on the basis of evidence led by the parties, gave finding on issue No.1 in favour of the claimants by observing that the accident took place on account of rash and negligent driving of dumper bearing registration No.HR-38-N-6178 by Sarip-respondent No.1. This finding was based on the deposition of Kamal (PW-2), who was an eye witness of the accident. Ultimately, the claim petition was accepted by the the tribunal and a sum of Rs.11,62,500/- was awarded as compensation on account of death of Rajesh Kumar along with interest at the rate of 7½% per annum from the date of filing of the petition till its realization. The deceased was working as store-keeper/technician with TC Saluja & Sons Private Limited, NIT, Faridabad and was getting salary of Rs.7500/- per month. Accordingly, his income was assessed as Rs.7500/- per month, which came to be Rs.90,000/- per annum, out of which 1/4th amount was deducted towards personal expenses. The dependency of claimant, thus, came to Rs.67,500/- per annum (90000 - 22500). The deceased was 26¼ years of age

the claimants were found entitled to compensation of Rs.11,47,500/- (67500 x 17). In addition to it, further compensation of Rs.5000/- was awarded towards funeral expenses and Rs.5000/- on account of loss of estate. Claimant No.1 was also held entitled to a sum of Rs.5000/- towards loss of consortium. Hence, the claimants were found entitled to total compensation of Rs.11,62,500/-.

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.

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 **New India Assurance Co. Ltd. vs. Gopali & others**, 2012 (12) SCC 198, **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.7500 /- per month
(ii)	50% of (i) above to be added as future prospects	Rs.7500 + Rs.3750 = Rs.11,250/-
(iii)	1/4 th of (ii) deducted as personal expenses of the deceased	Rs.11,250 – 2812= Rs.8438/-

SR. No.	HEADS	CALCULATION
(iv)	Compensation after multiplier of 17 is applied	Rs.8438 x 12 x 17 = Rs.17,21,352/-
(v)	Loss of consortium	Rs.1,00,000/-
(vi)	Loss of estate	Rs.1,00,000/-
(vii)	Loss of love and affection for children	Rs.2,00,000/- (Rs.1,00,000/- each)
(viii)	Loss of love and affection for parents (appellant Nos.4 and 5)	Rs.1,00,000/- (Rs.50,000/- each)
(ix)	Funeral expenses	Rs.25,000/-
(x)	TOTAL COMPENSATION AWARDED	Rs.22,46,352 /-
	Enhanced amount of compensation	Rs.22,46,352 – 11,62,500 = Rs.10,83,852/-

The enhanced amount of compensation of **Rs.10,83,852/-** 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.

17.11.2015
ajp

(RITU BAHRI)
JUDGE