

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

**FAO No.5425 of 2013 (O&M)
Date of decision: 06.10.2015**

Smt. Narro Devi and others

....Appellants

Versus

Charanji Lal and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Aayush Gupta, Advocate
for the appellants.

Mr. J.S. Virk, Advocate
for respondent No.1.

Mr. A.S. Sidhu, Advocate
for respondent No.2.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Kurukshetra (hereinafter referred to as 'the Tribunal') vide award dated 08.02.2013, on account of death of Roshan Lal in a motor vehicular accident.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 03.01.2012, Gurdyal Singh (deceased), Baldev Singh (injured) and Roshan Lal (deceased) were going from village Murtzapur to Pehowa in a car

bearing registration No.HR-07-P-9753, which was driven by Gurdyal Singh. At about, 09:45 a.m., when they reached near Tali Farm on Pehowa Road, then a truck bearing registration No.HR-45-8128, which was driven by respondent No.1-Charanji Lal, in a rash and negligent manner and at a very high speed came from opposite side, i.e. Pehowa side and dashed the same in the aforesaid car. As a result of which, Gurdyal Singh, Baldev Singh and Roshan lal suffered serious and grievous injuries. They were taken to LNJP Hospital, Kurukshetra, where Gurdyal Singh and Roshal Lal died due to accidental injuries. The post-mortem on the dead bodies of Gurdyal Singh and Roshan Lal was conducted at LNJP Hospital, Kurukshetra.

In this regard, FIR No.1 dated 03.01.2012, under Sections 279 and 304-A of the Indian Penal Code, 1860, in respect of the accident in question was got registered at Police Station Pehowa.

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, the Tribunal came to a conclusion that the accident was caused on account of rash and negligent driving of truck bearing registration No.HR-45-8128 by Charanji Lal-respondent No.1. The Tribunal has rightly returned the finding on Issue No.5 in favour of the

claimants-appellants, after accepting the deposition of PW-2 Naro Devi (widow of the deceased).

The claim petition was partly accepted by the tribunal and a sum of Rs.7,49,200/- was awarded as compensation on account of death of Roshan Lal along with future interest at the rate of 7.5% per annum from the date of filing of the petition till its realization.

The monthly income of the deceased was assessed at Rs.5,500/- per month, out of which 1/5th amount was deducted towards personal expenses. The dependency of claimants, thus, came to Rs.4,400/- per month, which came to Rs.52,800/- per annum. Roshan Lal (deceased) was 42 years of age at the time of the accident/death and the multiplier of 14 was applied. Thus, the claimants were found entitled to compensation of Rs.7,39,200/-. In addition to it, further compensation of Rs.10,000/- was awarded towards funeral expenses. Hence, the claimants were found entitled to total compensation of Rs.7,49,200/-.

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 *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	CALCULATIONS
(i)	Annual Income	Rs.66,000/-
(ii)	30% of (i) above to be added as future prospects (Age 42 years)	(Rs.66,000/-) + (Rs.19,800/-) = Rs.85,800/-
(iii)	Dependency of the claimant after deducting 1/5th of (ii) towards personal expenses of the deceased	(Rs.85,800/-) - (Rs.17,160) = Rs.68,640/-
(iv)	Compensation after multiplier of 14 is applied	(Rs.68,640/- x 14) =Rs.9,60,960/-
(v)	Loss of consortium	Rs.1,00,000/-
(vi)	Loss of estate	Rs.1,00,000/-
(vii)	Loss of love and affection for minor children	Rs.7,00,000/- (Rs.1,00,000/- each)
(vii)	Loss of love and affection to mother	Rs.50,000/-
(ix)	Funeral expenses	Rs.25,000/-
(x)	TOTAL COMPENSATION AWARDED	Rs.19,35,960/-
(xi)	Enhanced amount of compensation	(Rs.19,35,960/-) – (Rs.7,49,200/-) =Rs.11,86,760/-

At this stage, learned counsel for respondent No.2, has argued that as per the judgment *Rajesh and others case (supra)*, the compensation awarded under the head of loss of love and

affection to all the children is Rs.1,00,000/-.

I have heard the contention made by learned counsel for respondent No.2, but do not find any force in that contention as this Court is following the judgment of *Asha Verman and others case (supra)*, consistently to award Rs.1,00,000/- to each child.

The enhanced amount of compensation of **Rs.11,86,760/-** 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.

06.10.2015

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(RITU BAHRI)
JUDGE