

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

**FAO No.5440 of 2013
Date of decision: 29.10.2015**

Seema Rani @ Seema Kumari and others

....Appellants

Versus

Manjeet Kaur and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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

Mr. Lalit Garg, 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, Faridkot (hereinafter referred to as 'the Tribunal') vide award dated 27.04.2013, on account of death of Arjan Kumar in a motor vehicular accident.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 15.02.2012 at 10:00 p.m., Arjan Kumar was returning from Shenshah Palace Bathinda Road, Kotkapura to his house on his motorcycle bearing temporary No.PB-04-L-7074, on the correct side of the road. He

was being followed by Sharan Kumar son of Narbahadur and Sonu son of Kala Ram both residents of Kotkapura. When he reached near New Grain Market, Kotkapura, a tralla bearing registration No.RJ-13-G-9553, came on its reverse gear and hit the motorcycle of Arjan Kumar. As a result of which, Arjan Kumar fell down and suffered multiple grievous injuries and died at the spot.

In this regard, FIR No.23 dated 16.02.2012, 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 Kotkapura, at the instance of Sonu son of Kala Ram.

Consequently, the claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

Before the Tribunal, Sonu (eye-witness) appeared as AW-1 and tendered his affidavit Ex.AW-1/A, to prove the accident in question. AW-2-Seema Rani @ Seema Kumari, also tendered her affidavit Ex.AW-2/A to corroborate the testimony of AW-1. Ultimately, on the basis of the evidence led by the parties, the Tribunal has rightly returned the finding on Issue No.1 in favour of the claimants-appellants.

The claim petition was partly accepted by the Tribunal and a sum of Rs.5,07,000/- was awarded as compensation on account of death of Arjan Kumar along with future interest at the rate of 6% per annum from the date of filing of the petition till its

realization.

The monthly income of the deceased was assessed at Rs.3,200/- per month, out of which 1/4th amount was deducted towards personal expenses. The dependency of claimants, thus, came to Rs.2,400/- per month, which came to Rs.28,800/- per annum. Arjan Kumar (deceased) was 29 years of age at the time of the accident/death and the multiplier of 17 was applied. Thus, the claimants were found entitled to compensation of Rs.4,89,600/-, rounded off to Rs.4,90,000. In addition to it, further compensation of Rs.15,000/- was awarded on account of loss of consortium and Rs.2,000/- was awarded towards funeral expenses. Hence, the claimants were found entitled to total compensation of Rs.5,07,000/-.

Feeling dissatisfied with the impugned award, the claimants-appellants have preferred the present appeal.

REASSESSED COMPENSATION

There is no dispute between the parties that the accident had taken place due to rash and negligent driving of tralla bearing registration No.RJ-13-G-9553.

Learned counsel for the appellants restrict his prayer for enhancement of compensation on account of loss of estate, consortium and funeral expenses.

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.

The Hon'ble Supreme Court in “***R.K. Malik and another vs Kiran Pal and others***”, 2009 (14) SCC 1, has affirmed the judgment passed by Delhi High Court, wherein a claim petition filed under Section 163-A of the Motor Vehicles Act, the pecuniary damages to the extent of Rs.75,000/- has been allowed.

So, as per ***R.K. Malik's case (supra)***, a sum of Rs.75,000/- more is granted to the claimants-appellants in addition to the amount already awarded by the Tribunal on account of consortium, loss of estate and funeral expenses.

The enhanced amount of compensation of **Rs.75,000/-** shall be payable within a period of three 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.

(RITU BAHRI)
JUDGE

29.10.2015

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