

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

**FAO No.5851 of 2013 (O&M)
Date of decision: 20.11.2015**

Smt. Kala Devi and others

....Appellants

Versus

Anil Kumar and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Abhinav Sood, Advocate,
for the appellants.

Mr. Ram Bilas Gupta, Advocate,
for respondent Nos. 1 and 2.

None for respondent No.3.

RITU BAHRI J. (Oral)

CM No.24222-CII of 2013

In view of the averments mentioned in the application, same is allowed and delay of 376 days in filing the appeal is condoned.

FAO No.5851 of 2013

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal') vide award dated 10.05.2012, on account of death of Kehar Singh in a motor vehicular accident which took place on 28.05.2009. Appellant No.1 is widow and appellant Nos.2 to 4 are sons of deceased Kehar Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 28.05.2009, deceased-Kehar

Singh along with Rai Singh was going on a motorcycle bearing registration No. HR-05-P-8894. Said motorcycle was being driven by Rai Singh and deceased-Kehar Singh was a pillion rider. At about 11.30 P.M., when they reached in front of Oasis on G.T. Road, within the area of Police Station, Sadar Karnal, a car bearing registration No.HR-29-R-9008, being driven by Anil Kumar-respondent No.1 in a rash and negligent manner came from behind and struck against the aforesaid motorcycle, as a result of which, both the occupants of the motorcycle received multiple serious and grievous injuries on various parts of their bodies. They were taken to Civil Hospital, Karnal. Later on, Kehar Singh succumbed to the injuries. With regard to the accident, FIR No.300 dated 29.05.2009, under Sections 279/337/304-A IPC was recorded at Police Station, Sadar, Karnal, against respondent No.1. 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 had been caused on account of rash and negligent driving of offending car by Anil Kumar-respondent No.1 and thus, returned the finding on Issue No.1 in favour of the claimants. There was no proof with regard to income of deceased. Therefore, his income was taken as Rs.4350/- per month i.e. Rs.52,200/- per annum, as per minimum D.C. rates applicable in Haryana. Out of this, 1/3rd amount was deducted towards personal expenses of deceased. The dependency of claimants, thus, came to Rs.34,800/- per annum. While taking the age of deceased as 53 years, multiplier of 11 was applied. Thus, the claimants were found entitled to compensation of Rs.3,82,800/-. In addition to it, Rs.10,000/- were

awarded on account of transportation and funeral expenses and Rs.2,76,214/- towards medical expenses. A sum of Rs.10,000/- was awarded to claimant No.1 as loss of consortium. Hence, the claimants were found entitled to total compensation of Rs.6,79,014/- along with interest @ 9% per annum from the date of filing of the petition till realization. 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, *New India Assurance Company Limited vs Gopali and others*, 2012 (12) SCC 198, *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, as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.4350/- per month
(ii)	15% of (i) above to be added as future prospects	4350 + 652 = Rs.5002/-
(iii)	1/3rd of (ii) above is deducted as personal expenses of the deceased	5002 – 1667 = Rs.3335/-
(iv)	Compensation after multiplier of 11 is applied	Rs.3335/- x 12 x 11 = Rs.4,40,220/-

(v)	Loss of consortium for the widow	Rs.1,00,000/-
(vi)	Loss of estate	Rs.1,00,000/-
(vii)	Loss of love and affection for the children	Rs.3,00,000/- (Rs.1,00,000/- each)
(viii)	Funeral expenses	Rs.25,000/-
(ix)	TOTAL COMPENSATION AWARDED	Rs.9,65,220/-
(x)	Enhanced amount of compensation	Rs.9,65,220 – 6,79,014 = Rs.2,86,206/-

The enhanced amount of compensation of **Rs.2,86,206/-** 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.

(RITU BAHRI)
JUDGE

20.11.2015
ajp