

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

**FAO No.6024 of 2013
Date of decision: 03.11.2015**

Anand Sharma

....Appellant

Versus

Govind Ram and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Jai Singh Yadav, Advocate
for the appellant.

Mr. J.S. Rana, Advocate
for Ms. Avnika Gupta, Advocate
for respondents No.1 and 2.

Mr. Sanjeev Goyal, Advocate
for respondent No.3.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Rewari (hereinafter referred to as 'the Tribunal') vide award dated 27.09.2013, on account of death of Mohan Lal in a motor vehicular accident.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 07.03.2012, Mohan

Lal along with Rahul son of Kanwar Singh was going for his personal work at village Mandola on motorcycle bearing registration No.HR-36N-9731, which was being driven by Rahul and at about 09/09:30 a.m., when they reached near Sati mata Mandir near Nangal Mundi, in the meanwhile, the offending vehicle Toyota Qualis bearing registration No.DL-4CAE-0437, being driven in a rash and negligent manner and at a high speed, came from Dahina side and struck with the motorcycle of Mohan Lal. As a result of the said impact, Mohan Lal and Rahul fell down on the road. Mohan Lal sustained serious and fatal injuries and he succumbed to the injuries on the way to General Hospital, Rewari, whereas Rahul had also sustained injuries in the said accident.

In this regard, FIR No.38 dated 07.03.2012, under Sections 279, 337 and 304-A IPC, in respect of the accident in question was got registered at Police Station Khol at the instance of Rahul.

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

COMPENSATION ASSESSED BY THE MACT

Before the Tribunal, ASI Vijay Kumar appeared as PW-1, who brought the summoned record pertaining to FIR No.38 dated 07.03.2012, under Sections 279, 337 and 304-A IPC, Police Station Khol and proved the photocopy of FIR Ex.P-1. He further

stated that the challan was submitted before Illaqa Magistrate on 22.03.2012.

Rahul (eye-witness) appeared as PW-5 and tendered his affidavit Ex.PW-5/A to prove the accident in question.

Dr. Abhishek, Medical Officer, General Hospital, Rewari appeared as PW-3 and also tendered his affidavit Ex.PW-1/A and stated that on 07.03.2012, on police request he had conducted the post-mortem examination on the dead body of Mohan Lal with history of accident vide PMR Ex.P-3. As per his opinion, the cause of death in this case was haemorrhage and shock as a result of injuries which were ante mortem in nature and sufficient enough to cause death in normal course of life.

Ultimately on the basis of the evidence led by the parties, the Tribunal has come to the conclusion that the accident in question was occurred due to the rash and negligent driving by respondent No.1 and the Tribunal has returned the finding on Issues No.1 to 4 in favour of the claimants-appellants.

The claim petition was partly accepted by the Tribunal and a sum of Rs.1,92,000/- was awarded as compensation on account of death of Mohan Lal 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.4,500/- per month as daily wager, out of which 50% amount

was deducted towards personal expenses. The dependency of the claimants, thus, came to Rs.2,250/- per month, which came to Rs.27,000/- per annum. Mohan Lal (deceased) was 28 years of age at the time of the accident/death and by keeping in view the age of the appellants-claimants as 66 years and 62 years, the multiplier of 7 was applied. Thus, the claimants were found entitled to compensation of Rs.1,89,000/-. In addition to it, further compensation of Rs.3,000/- was awarded towards funeral expenses. Hence, the claimants were found entitled to total compensation of Rs.1,92,000/-.

Feeling dissatisfied with the impugned award, the claimant-appellant has 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, *Munna Lal Jain and another vs. Vipin Kumar Sharma and others*, 2015(3) Recent Apex Judgments 459 and *Amrit Bhanu Shali and others vs National Insurance Company Limited and others*, 2012 ACJ 2002. Accordingly, the compensation is re-assessed as under:-

SR. NO.	HEADS	CALCULATIONS
(i)	Annual Income (Rs.4,500 x 12)	Rs.54,000/-
(ii)	50% of (i) above to be added as future prospects (Age 28 years)	(Rs.54,000/-) + (Rs.27,000/-) = Rs.81,000/-
(iii)	Dependency of the claimant after deducting 50% of (ii) towards personal expenses of the deceased	(Rs.81,000/-) - (Rs.40,500) = Rs.40,500/-
(iv)	Compensation after multiplier of 17	(Rs.40,500/- x 17) =Rs.6,88,500/-
(v)	Loss of love and affection to parents of the deceased	Rs.1,00,000/- (Rs.50,000/- each)
(vi)	Funeral expenses	Rs.25,000/-
(viii)	TOTAL COMPENSATION AWARDED	Rs.8,13,500/-
(ix)	Enhanced amount of compensation	(Rs.8,13,500/-) – (Rs.1,92,000/-) =Rs.6,21,500/-

The enhanced amount of compensation of **Rs.6,21,500/-** 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

03.11.2015
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