

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

**FAO No.6171 of 2013 (O&M)
Date of decision: 07.12.2015**

Asha Rani and others

....Appellants

Versus

Ravi Kumar and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Ms. Anju Sharma, Advocate
for the appellants.

None for respondent No.1.

Mr. R.S. Chauhan, Advocate
for respondent No.2.

Mr. Paul S. Saini, Advocate
for respondent No.3.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimants-appellants against the award dated 04.07.2013, passed by Motor Accident Claims Tribunal, Pathankot (hereinafter referred to as 'the Tribunal') on account of death of Prem Chand in a motor vehicular accident, which took place on 17.02.2012.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 17.02.2012, Prem

Chand (deceased) was coming towards his village Bharoli Khurd from Pathankot on his bicycle. At about 12:15 p.m., when Prem Chand reached in front of turn to village Bharoli Khurd, a Ford Fiesta car bearing registration No.PB-06-G-2727, driven by respondent No.1 came from Pathankot side. The offending car was being driven at a very high speed in rash and negligent manner by its driver. The offending car dashed into the bicycle of deceased Prem Chand. Prem Chand (deceased) received multiple serious injuries and he was brought to Civil Hospital, Pathankot through ambulance, where he succumbed to his injuries.

In this regard, FIR Ex.A-3, in respect of the accident in question was got registered at Police Station Sujampur.

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

COMPENSATION ASSESSED BY THE MACT

Before the Tribunal, Amar Singh appeared as AW-3 and the claimants have tendered the copies of FIR Ex.A-3 and postmortem report Ex.A-4.

Neither the driver of the offending vehicle nor any other person claiming to have witnessed the accident appeared in the witness-box to rebut the statements of claimants-appellants and the Tribunal has 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.22,47,984/- was awarded as compensation on account of death of Prem Chand along with future interest at the rate of 9% per annum from the date of filing of the petition till its realization.

The deceased was employed as a Fireman Grade-I with 69 coy ASC (Sup) Type 'D', C/o 56 APO and his monthly income was taken as Rs.25,318/- per month and the annual income comes to Rs.3,03,816/-, out of which 1/3rd amount was deducted towards personal expenses. The dependency of the claimants, thus, came to Rs.2,02,544/- per month. Prem Chand (deceased) was 55 years of age at the time of the accident/death and the multiplier of 11 was applied. Thus, the claimants were found entitled to compensation of Rs.22,27,984/-. In addition to it, further compensation of Rs.5,000/- was awarded towards loss of consortium, Rs.5,000/- was awarded on account of loss of love and affection for children, Rs.5,000/- was awarded in respect of loss of estate and Rs.5,000/- was awarded towards funeral expenses. Hence, the claimants were found entitled to total compensation of Rs.22,47,984/-.

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.3,03,816/-
(ii)	Dependency of the claimant after deducting 1/3rd of (i) towards personal expenses of the deceased	(Rs.3,03,816/-) - (Rs.1,01,272) = Rs.2,02,544/-
(iii)	Compensation after multiplier of 11	(Rs.2,02,544/- x 11) =Rs.22,27,984/-
(iv)	Loss of estate	Rs.1,00,000/-
(v)	Loss of consortium	Rs.1,00,000/-
(vi)	Loss of love and affection to children	Rs.2,00,000/- (Rs.1,00,000/- each)
(vii)	Funeral expenses	Rs.25,000/-
(viii)	TOTAL COMPENSATION AWARDED	Rs.26,52,984/-
(ix)	Enhanced amount of compensation	(Rs.26,52,984/-) – (Rs.22,47,984/-) =Rs.4,05,000/-

The enhanced amount of compensation of **Rs.4,05,000/-** 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

07.12.2015

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