

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

**FAO No.6184 of 2013 (O&M)
Date of decision: 20.11.2015**

Pritam Kaur and another

....Appellants

Versus

Mahavir Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Ms. Monika Jalota, Advocate,
for the appellants.

None for the respondents.

RITU BAHRI J. (Oral)

CM No.25460-CII of 2013

For the reasons mentioned in the application, same is allowed and delay of 146 days in filing of the appeal is condoned.

FAO No.6184 of 2013

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'the Tribunal') vide award dated 21.01.2013, on account of death of Jaspal Singh in a motor vehicular accident which took place on 01.05.2008. Appellants are parents of deceased Jaspal Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 30.04.2008, deceased-Jaspal Singh had started from Raipur Rani for Delhi on a truck bearing registration

No. HR-37-C-5737. He himself was driving the said truck, whereas Harjeet Singh was the cleaner of the truck. On 01.05.2008, at about 5.00 A.M., when they reached near village Pattikalyan, a truck bearing registration No. HR-69-C-0181, being driven by Mahavir Singh-respondent No.1, which was going ahead of the truck of Jaspal Singh, suddenly applied brakes in the middle of the road without giving any indicator. Jaspal Singh also applied sudden brakes to avoid the accident, but his truck struck against the offending vehicle, as a result of which, Jaspal Singh suffered multiple grievous injuries. He was taken to Civil Hospital, Samalkha, from where he was referred to Civil Hospital, Panipat, but he succumbed to his injuries during treatment. With regard to the accident, FIR No.276 dated 01.05.2008 was recorded at Police Station, Samalkhan, District Panipat, 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 truck by Mahavir Singh-respondent No.1 and thus, returned the finding on Issue No.1 in favour of the claimants. While assessing compensation, income of the deceased was taken as Rs.4000/- per month. Out of this, 50% amount was deducted towards personal expenses of deceased. The dependency of claimants, thus, came to Rs.2000/- per month i.e. Rs.24000/- per annum. While taking average age of the parents of deceased as 52 years, multiplier of 13 was applied. Thus, the claimants were found entitled to compensation of Rs.3,12,000/-. In addition to it, Rs.10,000/- were awarded as funeral expenses and Rs.20,000/- towards

mental agony having lost thier young son. Hence, the claimants were found entitled to total compensation of Rs.3,42,000/- along with interest @ 7% 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.4,000/- per month
(ii)	50% of (i) above to be added as future prospects	4000 + 2000 = Rs.6000/-
(iii)	50% of (ii) above is deducted as personal expenses of the deceased	6000 – 3000 = Rs.3000/-
(iv)	Compensation after multiplier of 18 is applied (Age 24 years)	Rs.3000/- x 12 x 18 = Rs.6,48,000/-
(v)	Loss of love and affection for the parents-appellants	Rs.1,00,000/- (Rs.50,000/- each)
(vi)	Funeral expenses	Rs.25,000/-

(vii)	TOTAL COMPENSATION AWARDED	Rs.7,73,000/-
(viii)	Enhanced amount of compensation	Rs.7,73,000 – 3,42,000 = Rs.4,31,000/-

The enhanced amount of compensation of **Rs.4,31,000/-** 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

20.11.2015
ajp