

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

FAO No.6185 of 2013 (O&M)

Date of decision: 17.11.2015

Gurmail Kaur and others

.....Appellants

Versus

Hardeep Singh @ Deepa and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Mayank Mathur, Advocate,
for the appellants.

Mr. Rajnish Malhotra, Advocate,
for respondent No.3-Insurance Company.

Ritu Bahri, J.

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'the Tribunal') vide award dated 15.07.2013 on account of death of Joginder Singh in a vehicular accident, which took place on 10.03.2011. Appellant No.1 is widow, appellant Nos. 2 & 3 are sons, appellant No.4 is daughter-in-law and appellant Nos.5 and 6 are grandchildren of deceased-Joginder Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 10.03.2011, deceased-Joginder Singh and his son-Charanjit Singh were going on a motorcycle bearing registration No. PB-37-D-8933 from Rajpura to village Mohamadipur. The said motorcycle was being driven by Charanjit Singh, whereas Joginder Singh was a pillion rider. Paramjit Singh and Paramdeep Singh were following their motorcycle in a car. At about 1.45 P.M., when they reached

near village Sehra, a mini bus bearing registration No. PB-23-F-1311, being

driven by Hardeep Singh @ Deepa-respondent No.1 in a rash and negligent manner, came from the opposite side. Driver of the said bus failed to control its speed and by coming on wrong side, struck the same against the motorcycle driven by Charanjit Singh, as a result of which, both the occupants of motorcycle fell down and were crushed under the tyres of the bus. The occurrence was witnessed by Paramjit Singh and Paramdeep Singh, who stopped their car and took the injured to Columbia Asia Hospital, Patiala, where both of them were declared “brought dead.” After the accident, respondent No.1 fled from the spot. With regard to the accident, FIR No.43 dated 10.03.2011, under Sections 279, 304-A IPC was registered at Police Station, Rajpura. Consequently, the claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

The Tribunal, on the basis of evidence led by the parties, gave finding on issue No.1 in favour of the claimants by observing that the accident took place on account of rash and negligent driving of mini bus bearing registration No.PB-23-F-1311 by respondent No.1-driver. This finding was based on the deposition of Paramjit Singh (PW-1), who was an eye witness of the accident and on whose statement, FIR (Ex.P3) was recorded. While assessing compensation, income of the deceased was taken as Rs.1,80,000/- per annum, out of which 1/3rd amount was deducted towards his personal expenses. The dependency of claimant, thus, came to Rs.1,20,000/- per annum. The deceased was 55 to 58 years of age at the time of the accident/death and the multiplier of 5 was applied. Thus, the claimants were found entitled to compensation of Rs.6,00,000/- (Rs.1,20,000 x 5). In addition to it, Rs.5000/- were awarded towards funeral

towards loss of consortium. Hence, the claimants were found entitled to total compensation of Rs.6,10,000/-.

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 **New India Assurance Co. Ltd. vs. Gopali & others**, 2012 (12) SCC 198, **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	CALCULATION
(i)	Income	Rs.1,80,000 /- per annum
(ii)	15% of (i) above to be added as future prospects	Rs.1,80,000 + Rs.27,000 = Rs.2,07,000/-
(iii)	1/3 rd of (ii) deducted as personal expenses of the deceased	Rs.2,07,000 – 69,000= Rs.1,38,000/-
(iv)	Compensation after multiplier of 11 is applied	Rs.1,38,000 x 11 = Rs.15,18,000/-
(v)	Loss of consortium	Rs.1,00,000/-
(vi)	Loss of estate	Rs.1,00,000/-
(vii)	Loss of love and affection for children-appellant Nos.2 and 3	Rs.2,00,000/- (Rs.1,00,000/- each)
(viii)	Funeral expenses	Rs.25,000/-
(ix)	TOTAL COMPENSATION AWARDED	Rs.19,43,000 /-

SR. No.	HEADS	CALCULATION
	Enhanced amount of compensation	Rs.19,43,000 – 6,10,000 = Rs.13,33,000/-

The enhanced amount of compensation of **Rs.13,33,000/-** 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.

17.11.2015
ajp

(RITU BAHRI)
JUDGE