

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

FAO No.6186 of 2013 (O&M)

Date of decision: 17.11.2015

Manjit 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 Charanjit Singh in a vehicular accident, which took place on 10.03.2011. Appellant No.1 is widow, appellant Nos. 2 & 3 are children and appellant No.4 is mother of deceased-Charanjit Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 10.03.2011, deceased-Charanjit Singh and his father-Joginder 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 accident 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 had taken 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.7500/- per month, out of which 1/3rd amount was deducted towards his personal expenses. The dependency of claimant, thus, came to Rs.5000/- per month i.e. Rs.60,000/- per annum. The deceased was 33 to 35 years of age at the time of the accident/death and the multiplier of 12 was applied. Thus, the claimants were found entitled to compensation of Rs.7,20,000/- (Rs.60,000 x 12). In addition to it, Rs.5000/- were awarded towards funeral expenses of deceased. Claimant No.1 was also held entitled to a sum of Rs.5000/-

compensation of Rs.7,30,000/- along with interest at the rate of 7.5% per annum from the date of filing of the claim 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 **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.7500 /- per month
(ii)	50% of (i) above to be added as future prospects	Rs.7500 + Rs.3750 = Rs.11,250/-
(iii)	1/3 rd of (ii) deducted as personal expenses of the deceased	Rs.11,250 – 3750= Rs.7500/-
(iv)	Compensation after multiplier of 16 is applied	Rs.7500 x 12 x 16 = Rs.14,40,000/-
(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)	Loss of love and affection for mother-appellant No.4	Rs.50,000/-
(ix)	Funeral expenses	Rs.25,000/-

SR. No.	HEADS	CALCULATION
(x)	TOTAL COMPENSATION AWARDED	Rs.19,15,000 /-
	Enhanced amount of compensation	Rs.19,15,000 – 7,30,000 = Rs.11,85,000/-

The enhanced amount of compensation of **Rs.11,85,000/-** 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