

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

**FAO No.6231 of 2013
Date of decision: 02.11.2015**

Davinder Kaur and another

....Appellants

Versus

Balwant Singh and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Ms. Ekta Thakur, Advocate
for the appellants.

None for the respondents.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal') vide award dated 18.03.2013, on account of death of Inderjit Singh in a motor vehicular accident.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 23.12.2008, Inderjit Singh was coming from Sohi Banquet Hall, Zirakpur towards village Hallomajra, Chandigarh, by driving his motor cycle No.CH-04-6317, on correct left side. At about 11.40 PM, when he reached near Kalgidhar Market in the area of village Baltana,

Chandigarh, a driver of Truck bearing registration No.HR-38-E-1231, came at high speed, in a rash and negligent manner without blowing horn and hit the motorcycle of Inderjit Singh and as a result of which, he fell on the road. The truck crushed the head of Inderjit Singh, who suffered multiple injuries including head injury, which proved fatal.

In this regard, FIR (Ex.P-1), in respect of the accident in question was got registered.

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

COMPENSATION ASSESSED BY THE MACT

Before the Tribunal, Inderjit Singh son of Tarlochan Singh (eye-witness) appeared as a witness and tendered his affidavit in the Court to prove the accident in question. He has also proved the FIR Ex.P-1, which was got registered by him.

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 statement of Inderjit Singh son of Tarlochan Singh, 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.1,64,500/- was awarded as compensation on account of death of Inderjit Singh along with future interest at the rate of 6% per annum from the date of filing of the petition till its

realization.

The deceased was a student of BBA in Swami Vivekanand Institute of Management and Technology, Ram Nagar Banur. He was a non-earning person in view of Para No.6 of the Second Schedule of Motor Vehicles Act, 1988 (for short 'the Act'), thus, the income of the deceased was taken as Rs.15,000/- per annum. Inderjit Singh (deceased) was 19 years of age at the time of the accident/death and the multiplier of 16 was applied as per Para I of the Second Schedule of the Act. However, as per Para No.1 of the Second Schedule of the Act, the amount of compensation so arrived at in case of fatal accident, the claim shall be reduced and thus, the claimants were found entitled to compensation of Rs.1,60,000/-. In addition to it, further compensation of Rs.2,000/- was awarded towards funeral expenses and Rs.2,500/- was awarded towards loss of estate. Hence, the claimants were found entitled to total compensation of Rs.1,64,500/-.

Feeling dissatisfied with the impugned award, the claimants-appellants have preferred the present appeal.

REASSESSED COMPENSATION

Learned counsel for the appellants has submitted that the deceased in the present case was 19 years of age and was a student of BBA in Swami Vivekanand Institute of Management and Technology, Ram Nagar Banur. Learned counsel for the

appellant has referred to the judgment ***“Kishan Gopal and another vs Lala and others”***, 2013 (4) R.C.R. (Civil) 276, to contend that in case of death of a 10 years' old child, the Hon'ble Supreme Court has referred to the Second Schedule of the Act, and has taken the income of a non-earning person as Rs.30,000/- per annum. This deviation was made by keeping in view the fact that the amendment in the Second Schedule of the Act, was made in the year 1994 and for the last 20 years, no further amendment was made and the value of a rupee had gone down considerably, since 1994.

Learned counsel for the appellants has further submitted that the Hon'ble Supreme Court in ***“Lata Wadhwa vs State of Bihar”***, 2001 (4) R.C.R. (Civil) 673, has taken the income of a housewife as Rs.3,000/- per month being a non-earning person in claim petition filed under Section 163-A of the Act.

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 present case, the deceased was 19 years of age and was a student of BBA in Swami Vivekanand Institute of Management and Technology, Ram Nagar Banur. He was also a non-earning person and therefore, the notional income of the

deceased is to be taken as Rs.36,000/- per annum and the multiplier of 15 is to be applied as per Second Schedule of the Act.

The Hon'ble Supreme Court in **“R.K. Malik and another vs Kiran Pal and others”**, 2009 (14) SCC 1, has affirmed the judgment passed by Delhi High Court, where in a claim petition filed under Section 163-A of the Motor Vehicles Act, the pecuniary damages to the extent of Rs.75,000/- has been allowed.

Accordingly, the compensation re-assessed as under:-

SR. NO.	HEADS	CALCULATIONS
(i)	Annual Income	Rs.36000/-
(ii)	Compensation after multiplier of 15	Rs.5,40,000/- (Rs.36,000/- x 15)
(iii)	Pecuniary damages	Rs.75,000/-
(iv)	TOTAL COMPENSATION AWARDED	Rs.6,15,000/-
(v)	Enhanced amount of compensation	(Rs.6,15,000/-) – (Rs.1,64,500/-) =Rs.4,50,500/-

The enhanced amount of compensation of **Rs.4,50,500/-** 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

02.11.2015

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