

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

**FAO No.6393 of 2013 (O&M)  
Date of decision: 06.10.2015**

Bhupinder Kaur and others

....Appellants

Versus

Charanji Lal and another

....Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**

Present: Mr. Dalel Singh Nain, Advocate  
for the appellants.

Mr. J.S. Virk, Advocate  
for respondent No.1.

Mr. A.S. Sidhu, Advocate  
for respondent No.2.

**RITU BAHRI J. (Oral)**

**CM Nos.25951-CII and 25952-CII of 2013**

For the grounds mentioned in the applications, the same are allowed and the delay of 69 days in re-filing the appeal and the delay of 67 days in filing the appeal stands condoned.

**MAIN CASE**

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Kurukshetra (hereinafter referred to as 'the Tribunal') vide award dated 08.02.2013, on account of death

of Gurdyal Singh in a motor vehicular accident.

### **FACTS NOT IN DISPUTE**

Brief facts of the case are that on 03.01.2012, Gurdyal Singh (deceased), Baldev Singh (injured) and Roshan Lal (deceased) were going from village Murtzapur to Pehowa in a car bearing registration No.HR-07-P-9753, which was driven by Gurdyal Singh. At about, 09:45 a.m., when they reached near Tali Farm on Pehowa Road, then a truck bearing registration No.HR-45-8128, which was driven by respondent No.1-Charanji Lal, in a rash and negligent manner and at a very high speed came from opposite side, i.e. Pehowa side and dashed the same in the aforesaid car. As a result of which, Gurdyal Singh, Baldev Singh and Roshan Lal suffered serious and grievous injuries. They were taken to LNJP Hospital, Kurukshetra, where Gurdyal Singh and Roshan Lal died due to accidental injuries. The post-mortem on the dead bodies of Gurdyal Singh and Roshan Lal was conducted at LNJP Hospital, Kurukshetra.

In this regard, FIR No.1 dated 03.01.2012, under Sections 279 and 304-A of the Indian Penal Code, 1860, in respect of the accident in question was got registered at Police Station Pehowa.

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 was caused on account of rash and negligent driving of truck bearing registration No.HR-45-8128 by Charanji Lal-respondent No.1. The Tribunal has rightly returned the finding on Issues No.1 to 3, in favour of the claimants-appellants, after accepting the deposition of PW-3 Baldev Singh (eye-witness of the accident).

The claim petition was partly accepted by the Tribunal and a sum of Rs.5,92,348/- was awarded as compensation on account of death of Gurdyal Singh along with future interest at the rate of 7.5% per annum from the date of filing of the petition till its realization.

The monthly income of the deceased was assessed at Rs.5,600/- per month, out of which 1/3rd amount was deducted towards personal expenses. The dependency of claimants, thus, came to Rs.3,733/- per month, which came to Rs.44,796/- per annum. Gurdyal Singh (deceased) was 45 years of age at the time of the accident/death and the multiplier of 13 was applied. Thus, the claimants were found entitled to compensation of Rs.5,82,348/-. In addition to it, further compensation of Rs.10,000/- was awarded towards funeral expenses. Hence, the claimants were found entitled to total compensation of Rs.5,92,348/-.

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.67,200/-                                    |
| (ii)    | 30% of (i) above to be added as future prospects (Age 45 years)                                    | (Rs.67,200/-) + (Rs.20,160/-)<br>= Rs.87,360/- |
| (iii)   | Dependency of the claimant after deducting 1/3rd of (ii) towards personal expenses of the deceased | (Rs.87,360/-) - (Rs.29,120)<br>= Rs.58,240/-   |
| (iv)    | Compensation after multiplier of 14 is applied                                                     | (Rs.58,240/- x 14)<br>=Rs.8,15,360/-           |
| (v)     | Loss of consortium                                                                                 | Rs.1,00,000/-                                  |
| (vi)    | Loss of estate                                                                                     | Rs.1,00,000/-                                  |
| (vii)   | Loss of love and affection for minor children                                                      | Rs.2,00,000/- (Rs.1,00,000/- each)             |
| (viii)  | Funeral expenses                                                                                   | Rs.25,000/-                                    |

|      |                                 |                                                   |
|------|---------------------------------|---------------------------------------------------|
| (ix) | TOTAL COMPENSATION AWARDED      | Rs.12,40,360/-                                    |
| (x)  | Enhanced amount of compensation | (Rs.12,40,360/-) – (Rs.5,92,348/-) =Rs.6,48,012/- |

At this stage, learned counsel for respondent No.2, has argued that as per the judgment *Rajesh and others case (supra)*, the compensation awarded under the head of loss of love and affection to all the children is Rs.1,00,000/-.

The Hon'ble Supreme Court in “*Smt. Neeta w/o Kallappa Kadolkar and others vs The Div. Manager, MSRTC, Kolhapur*”, 2015 (1) R.C.R. (Civil) 625 and “*Jiju Kuruvila and others vs Kunjamma Mohan and others*”, 2013 (3) R.C.R. 817, has awarded the compensation under the head of loss of love and affection to each children is Rs.1,00,000/- and as per Asha Verman and others case (supra), this Court is also awarding the compensation under the head of loss of love and affection to each children as Rs.1,00,000/- consistently.

The enhanced amount of compensation of **Rs.6,48,012/-** 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.

**06.10.2015**

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**(RITU BAHRI)**  
**JUDGE**