

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

**FAO No.5905 of 2014 (O&M)**

**Date of decision : 10.09.2015**

Mahindero Devi & others

...Appellants

versus

Kaffil @ Mubarik & others

...Respondents

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

**Present:** Mr. Diwan S.Adlakha, Advocate  
for the appellants.

Ms. Vandana Malhotra, Advocate for respondent No.3.

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**RITU BAHRI, J (Oral)**

**CM No.16345-CII-2014**

There is a delay of 543 days in filing the appeal.

Claimants are the legal representatives of the deceased  
Shish Pal. Deceased was a daily wager, who died in an accident which  
took place on 06.08.2011.

Keeping in view the status of the claimants, delay of 543  
days in filing the appeal is condoned.

**FAO No.5905 of 2014**

The appellants/claimants have come up in appeal against  
the award of the Motor Accidents Claims Tribunal, Yamuna Nagar at  
Jagadhari (hereinafter referred to as “the Tribunal”) dated 17.09.2012,  
whereby the Tribunal has awarded a compensation of Rs.5,56,800/- to  
the claimants on account of death of Shish Pal, who died in a road  
accident which took place on 06.08.2011.

Facts not in dispute are that on 06.08.2011, the deceased Shish Pal was going to village Sabapur alongwith his nephew Vikram @ Vikki on his Tata Ace (Chhota Hathi) bearing No.HR-45-A-1906, being driven by the deceased on a moderate speed on his correct left hand side of the road and at about 7.00 p.m. when they reached near Mittal Brick Kiln on old Saharanpur road a tractor-trolley bearing registration No.HR02X-9536 being driven by respondent No.1 in a rash and negligent manner came and hit the Tata Ace of the deceased and ran away from the spot. The deceased and his nephew took lift in a car and at about 7.30 p.m. near Jhota Chowk they tried to stop the offending vehicle but he again hit the deceased. As a result of which Shish Pal sustained multiple simple as well as grievous injuries on his person and died during his treatment in Civil Hospital, Yamanunagar. The accident took place due to rash and negligent driving of offending vehicle by respondent No.1.

On account of death of Shish Pal, the claimants filed claim petition under Section 166 of the Motor Vehicles Act, 1988, which was accepted by the Tribunal and a sum of Rs.5,56,800/- was awarded as compensation to the claimants on account of death of Shish Pal, after assessing the income of the deceased Shish Pal as Rs.4,300/- per month as per minimum wages fixed by the State Government for an unskilled daily wager or Rs.51,600/- per annum. 1/4<sup>th</sup> amount was deducted towards personal expenses. The annual dependency of claimants, thus, came to Rs.38,700/-. Shish Pal was about 42 years of age at the time of accident and the multiplier of 14 was applied. Thus,

the claimants were found entitled to compensation of Rs.5,41,800/- (Rs.38,700/- x 14). In addition to it, further compensation of Rs.10,000/- towards transportation of dead body and for performing last rites. A sum of Rs.5,000/- was also granted as loss of consortium. Hence the claimants were found entitled to total compensation of Rs.5,56,800/-.

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

I have heard counsel for the parties and perused the case file.

The fact of accident is admitted and proved. The deceased 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 & ors. Vs. Maharaj Singh & ors., 2015 (2) RCR (Civil) 520, Sarla Verma & ors. Vs. Delhi Transport Corporation & anr., 2009 (3) RCR (Civil) Page 77, Rajesh & ors. Vs. Rajbir Singh & ors., 2013 (9) SCC 54 and Munna Lal Jain & anr. Vs. Vipin Kumar Sharma & ors., 2015 (3) Recent Apex Judgments 459.* Accordingly, the compensation is reassessed as under:-

| Sr. No. | Heads                                  | Calculation                                    |
|---------|----------------------------------------|------------------------------------------------|
| (i)     | Income                                 | Rs.4,300/- per month                           |
| (ii)    | Annual Income                          | Rs.4,300/- x 12 =<br>Rs.51,600/- per annum     |
| (iii)   | 30% of (ii) added for future prospects | (Rs.51,600/-) + (Rs.15,480/-)<br>= Rs.67,080/- |

|        |                                                                                                                  |                                                                     |
|--------|------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|
| (iv)   | Dependency of the claimants after deducting 1/4 <sup>th</sup> of (iii) towards personal expenses of the deceased | (Rs.67,080/-) – (Rs.16,770/-)<br>= Rs.50,310/-                      |
| (v)    | Compensation after multiplier of 14 is applied                                                                   | (Rs.50,310/- x 14)<br>= Rs.7,04,340/-                               |
| (vi)   | Loss of estate                                                                                                   | Rs.1,00,000/-                                                       |
| (vii)  | Loss of consortium                                                                                               | Rs.1,00,000/-                                                       |
| (viii) | Loss of love and affection to the children                                                                       | Rs.3,00,000/- (Rs.1,00,000/- each to the children)                  |
| (ix)   | Loss of love and affection to the father                                                                         | Rs.50,000/-                                                         |
| (x)    | Funeral expenses                                                                                                 | Rs.25,000/-                                                         |
| (xi)   | <b>Total Compensation awarded</b><br>[(v)+(vi)+(vii)+(viii)+(ix)+(x)]                                            | <b>Rs.12,79,340/-</b>                                               |
| (xii)  | <b>Enhanced amount of compensation</b>                                                                           | <b>(Rs.12,79,340/-) - (Rs.5,56,800/-)</b><br><b>= Rs.7,22,540/-</b> |

The enhanced amount of compensation of **Rs.7,22,540/-** 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 realisation, in view of the judgment of Hon'ble Supreme Court in the case of **Kumari Kiran through her father Harinarayan Vs. Sajjan Singh & ors., 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.

**10.09.2015**  
Vinay

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