

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.6254 of 2014

Date of Decision: 18.12.2015

Smt.Suresh and Others

.....Appellants

Vs.

Sh.Darshan Singh and Others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Ashwani Arora, Advocate for the appellants.

Mr.Paramjit Singh, Advocate for

Mr.G.S.Bawa, Advocate for respondents No.1 and 2.

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

RITU BAHRI, J. (ORAL)

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Ambala (hereinafter referred to as 'the Tribunal') vide award dated 18.02.2014 on account of death of Satish Kumar @ Santosh Kumar in a vehicular accident, wife of appellant No.1 and father of appellants No.2 and 3.

FACTS NOT IN DISPUTE

Brief facts of the case for the decision of the case are that on 26.10.2012 at about 4-4:30 p.m., the deceased Satish Kumar @ Santosh Kumar was going from Ambala City towards Durga nagar by paddling his bicycle and when he reached near the shop of Sajjan Battery on Ambala-Hissar Road, a bus bearing registration No.HR-37-C-8849 came at a fast speed from behind and while it was in the process of overtaking, the bus struck against his bicycle. Due to the accident, he fell down on the road and received serious injuries. He was taken to Civil Hospital, Ambala and from where, he was referred to PGI, Chandigarh, where he died on 03.11.2012 due to the injuries received in the accident. In this

connection, FIR No.364 dated 01.11.2012 under Sections 279, 337 IPC was registered by Ambala Sadar Police, Distt. Ambala against the respondent No.1.

Findings have been given by the learned Tribunal on the basis of evidence of eye-witness Surjan Singh, PW-4 by giving details of the manner of accident, which remains uncontroverted. Thus, accident in question stands established. In support of the case of prosecution, Ajmer Singh, Criminal Ahlmad, appeared before the learned Tribunal as PW-1. He brought the summoned record of the case titled State Vs. Darshan Singh, FIR No.264 dated 01.11.2012 under Sections 279, 337, 304-A IPC. P.S.Sadar Ambala. He also informed the Court that charge against the accused Darshan Singh (respondent No.1) has been framed.

COMPENSATION ASSESSED BY THE MACT

The learned Tribunal on the basis of evidence on record returned to the findings that accident took place on account of rash and negligent driving of respondent No.1. The compensation has been assessed keeping in view the income of the deceased-Sukhdev Singh as per last pay drawn i.e. Rs.13516/- as per Salary certificate Ex.P6. The total compensation has been assessed by the learned MACT as under:-

Serial No.	Heads	Calculation
1	Income	Rs.13516/-
2	Deduction (1/3rd)	Rs.13516/-Rs.4505/-=Rs.9011/-
3	Annual Income	Rs.9011/- X 12=Rs.1,08,132/-
3	Multiplier (applied 15 as per age 38 years at the time of death)	Rs.1,08,132/- X 15=Rs.16,21,980/-
4	Funeral expenses	Rs.20,000/-
5	Loss of consortium and loss of estate	Rs.20,000/-
6	Love and affection	Rs.25,000/-
	Total	Rs.16,86,980/ rounded off Rs.16,87,000/-

REASSESSED COMPENSATION

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

The fact of the 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 Verma 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 is re-assessed as under:-

Serial No.	Heads	Calculation
1	Income	Rs.13516/-
2	Future prospect 50%	Rs.13516 + Rs.6758/-= Rs.20,274/-
2	Deduction (1/3rd)	Rs.20274/- - Rs.6758/-= Rs.13516/-
3	Annual Income	Rs.13516/- X 12=Rs.1,62,192/-
3	Multiplier (applied 15 as per age 38 years at the time of death)	Rs.1,62,192/- X 15=Rs.24,32,880-
4	Funeral expenses	Rs.25,000/-
5	Loss of consortium	Rs.1,00,000/-
6	Loss of estate	Rs.1,00,000/-
6	Love and affection (two minors)	Rs.2,00,000/-
	Total	Rs.28,57,880/-
	Enhanced amount of compensation	(Rs.28,57,880/-)- (Rs.16,87,000/-) =Rs.11,70,880/-

The enhanced amount of compensation of Rs.11,70,880/- 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 receipt of certified copy of this order.

ANIL KUMAR
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I attest to the accuracy and
integrity of this document

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

18.12.2015
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