

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

**FAO No.7605 of 2014 (O&M)
Date of decision: 02.12.2015**

Smt. Paramjit Kaur and another

....Appellants

Versus

Gurmeet Singh and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sagar Aggarwal, Advocate,
for the appellants.

Mr. Pardeep Goyal, Advocate,
for respondent No.2-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal') vide award dated 09.05.2014, on account of death of Gurdeep Singh in a motor vehicular accident which took place on 29.09.2011. Appellant No. 1 is widow, whereas appellant No.2 is son of deceased Gurdeep Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 29.09.2011, deceased-Gurdeep Singh along with one Sonu, after performing his duty at Sparch Call Centre, G.T. Road, was going to village Lalyani on a motorcycle bearing registration No. HR-05-Y-3842. The said motorcycle was being driven by Gurdeep Singh. At about 8.00 P.M., when they reached near main gait of Grain Market, G.T. Road, Karnal, a trolly bearing registration No.

PB-46-K-2058, being driven by Gurmeet Singh-respondent No.1 in a rash and negligent manner, came from behind and struck against the motorcycle Gurdeep Singh, as a result of which both the occupants of motorcycle fell down on the road. Thereafter, the offending trolly ran over the body of Gurdeep Singh. Due to the accident, both of them received multiple, serious and grievous injuries on various parts of their bodies. Gurmeet Singh was taken to Government Hospital, Karnal, from where he was referred to PGI, Chandigarh, where he remained admitted up till 25.10.2011. Thereafter, he was taken at Kurukshetra Nursing Home, Kurukshetra. He was also taken to Dr. Parveen Garg Hospital, Karnal and Patiala Olambi Hospital, Patiala. Ultimately, Gurdeep Singh succumbed to the injuries on 26.10.2011. With regard to the accident, FIR No.875/2011, under Sections 279/304-A IPC was recorded at Police Station, City, Karnal against respondent No.1. 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 had been caused on account of rash and negligent driving of offending trolly by Gurmeet Singh-respondent No.1 and thus, returned the finding on Issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of Sonu alias Sachin (PW-2), who was an eye witness of the accident. In the absence of any evident, the income of the deceased was taken as Rs.6000/- per month as unskilled worker, out of which 1/3rd amount was deducted towards personal expenses of deceased. The dependency of claimants, thus, came to Rs.4000/- per month i.e. Rs.48,000/- per annum. As per postmortem report,

the deceased was 45 years of age at the time of accident/death and the multiplier of 14 was applied. Thus, the claimants were found entitled to compensation of Rs.6,72,000/- (Rs.48,000 x 14). In addition to it, Rs.10,000/- were awarded towards loss of consortium and Rs.10,000/- for funeral expenses. A sum of Rs.40,000/- (Rs.20,000/- each) was awarded towards loss of love and affection. Apart from this, a sum of Rs.1,50,000/- was awarded towards medical expenses. Hence, the claimants were found entitled to total compensation of Rs.8,92,000/- along with interest @ 7½% per annum from the date of filing of the 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 ***Asha Verman and others vs. Maharaj Singh and others***, 2015(2) RCR (Civil) 520, ***New India Assurance Company Limited vs Gopali and others***, 2012 (12) SCC 198, ***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, as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.6000/- per month
(ii)	30% of (i) above to be added as future prospects	6000 + 1800 = Rs.7800/-
(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	7800 – 2600 = Rs.5200/-
(iv)	Compensation after multiplier of 14 is applied	Rs.5200/- x 12 x 14 = Rs.8,73,600/-
(v)	Loss of consortium for the widow	Rs.1,00,000/-
(vi)	Loss of estate	Rs.1,00,000/-
(vii)	Loss of love and affection for the child (appellant No.2)	Rs.1,00,000/-
(viii)	Funeral expenses	Rs.25,000/-
(ix)	Medical expenses	Rs.1,50,000
(x)	TOTAL COMPENSATION AWARDED	Rs.13,48,600/-
(xi)	Enhanced amount of compensation	Rs.13,48,600 – 8,92,000 = Rs.4,56,600/-

The enhanced amount of compensation of **Rs.4,56,600/-** 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

02.12.2015
ajp