

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

**FAO No.816 of 2014 (O&M)
Date of decision: 21.08.2015**

Smt. Sajni and others

....Appellants

Versus

Manoj Kumar and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sanjay Mittal, Advocate,
for the appellants.

Ms. Rajni, Advocate,
for Ms. Vandana Malhotra, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

CM No.2561-CII of 2014

For the reasons mentioned in the application, same is allowed
and delay of 63 days in filing of the appeal is condoned.

FAO No.816 of 2014

This appeal has been filed by the claimants-appellants seeking
enhancement of compensation awarded by Motor Accident Claims Tribunal,
Rewari (hereinafter referred to as 'the Tribunal') vide award dated
03.08.2013, on account of death of Ramji Lal in a motor vehicular accident
which took place on 25.08.2011. Appellant No. 1 is widow, whereas
appellant Nos.2 to 5 are children of deceased Ramji Lal.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 25.08.2011, deceased-Ramji

Lal was going on his bicycle. At about 6.30 P.M., when he reached near IOC Chowk, Rewari, a truck bearing registration No. HR-38-W-3459, being driven by Manoj Kumar-respondent No.1 in a rash and negligent manner, came from the side of Pilot Chowk, Rewari at a high speed and struck against the cycle of Ramji Lal, as a result of which he received multiple and grievous injuries on his head, legs and other parts of body. Thereafter, one Shyam Lal son of Jai Phool took him to Unique City Scan Model Town, Rewari. After city scan, he was shifted to Life Care Hospital, Rewari. During his treatment, Ramji Lal died in the hospital. With regard to the accident, FIR No.283 dated 26.08.2011, under Sections 279/304-A IPC was recorded at Police Station, Model Town, Rewari 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 truck by Manoj Kumar-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 Shyam Lal (PW-3), who was an eye witness of the accident. Ultimately, the claim petition was accepted by the Tribunal and a sum of Rs.6,35,000/- was awarded as compensation on account of death of Ramji Lal. The income of the deceased was taken as Rs.5000/- per month, which came to Rs.60,000/- per annum. Out of this, 1/3rd amount was deducted towards personal expenses of deceased. The dependency of claimants, thus, came to Rs.40,000/- per annum. As per postmortem report, the deceased was 40 years of age at the

time of accident/death and the multiplier of 15 was applied. Thus, the claimants were found entitled to compensation of Rs.6,00,000/-. In addition to it, Rs.5000/- were awarded towards loss of estate and Rs.5000/- for funeral charges. A sum of Rs.25,000/- was awarded towards loss of love and affection and consortium. Hence, the claimants were found entitled to total compensation of Rs.6,35,000/- along with interest @ 6% 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)	Annual Income	Rs.60,000/-
(ii)	30% of (i) above to be added as future prospects (age of deceased 40 years)	60,000 + 18,000 = Rs.78,000/-

(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased (five dependents)	78,000 – 19,500 = Rs.58,500/-
(iv)	Compensation after multiplier of 15 is applied	Rs.58,500/- x 15 = Rs.8,77,500/-
(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 children	Rs.4,00,000/- (Rs.1,00,000/- each)
(viii)	Funeral expenses	Rs.25,000/-
(ix)	TOTAL COMPENSATION AWARDED	Rs.15,02,500/-
(x)	Enhanced amount of compensation	Rs.15,02,500 – 6,35,000 = Rs.8,67,500/-

The enhanced amount of compensation of **Rs.8,67,500/-** 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

21.08.2015
ajp