

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO No. 8716 of 2014

Date of decision : August 24, 2015

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Kanta Sood and another

.....Appellants

Versus

Hardeep Singh and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Anil Kumar Spehia, Advocate for the appellants.

Mr. Lalit Garg, Advocate for respondent no.3-Insurance Company.

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1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

RITU BAHRI, J

C.M No. 23781-CII of 2014

For the reasons mentioned in the application, delay of 521 days in filing the present appeal is condoned.

C.M is allowed.

FAO No. 8716 of 2014

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Jalandhar (hereinafter referred to as 'the Tribunal') vide award dated 5.1.2013 on account of death of Bodh Raj in a vehicular accident, husband of claimant-appellant no.1 and father of claimant-appellant no.2.

FACTS NOT IN DISPUTE

The brief facts of the case are that on 10.8.2011 at about 7:15 O'Clock, Bodh Raj since deceased was proceeding to bring milk from Jalandhar Cantt. on his scooter bearing registration no. PB-08-A-0478. When he reached near the shop of Rashpal son of Narinder Singh resident of Jamsherpur on the main road leading from village Jamsherpur to Jalandhar Cantt, One Tata 207 vehicle bearing registration no. PB-09-M-9238 being driven by respondent no.1- Hardeep Singh rashly and negligently at a high speed came there and struck against the scooter of Bodh Raj, as a result of which, he received multiple injuries on his head and chest. Bodh Raj was taken to Johal Hospital, Jalandhar from the place of accident but he succumbed to his injuries. An FIR Ex. P-1 with regard to the accident was registered.

COMPENSATION ASSESSED BY THE MACT

On account of death of Bodh Raj, claimants filed claim petition under Section 166 of the Motor Vehicles Act, 1988, which was accepted by the Tribunal and a sum of Rs. 2,30,000/- was

awarded as compensation on account of death of Bodh Raj. The monthly income of the deceased was assessed at Rs. 5200/- per month. $\frac{1}{3}^{\text{rd}}$ amount was deducted towards personal expenses. The dependence of claimants, thus, came to Rs.3500/- per month approximately which came to Rs.42,000 per annum. Bodh Raj was 71 years of age at the time of the accident and hence the multiplier of 5 was applied. Thus, the claimants were found entitled to compensation of Rs.2,10,000/-. In addition to it, further compensation of Rs.10,000/- towards loss of consortium, Rs.5000/- towards loss of estate and Rs.5000/- towards funeral expenses was awarded. Hence the claimants were found entitled to total compensation of **Rs. 2,30,000/-**.

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. 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 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:-

<i>Sr. No.</i>	<i>HEADS</i>	<i>CALCULATION</i>
(I)	Income	Rs.5200/- per month
(ii)	1/3 rd of (i) deducted personal expenses of the deceased	(Rs.5200/-)-(Rs.1733/-) =Rs.3467/-
(iii)	Compensation after multiplier of 5 is applied	(Rs.3467 x12x 5) =Rs.2,08,020/-
(iv)	Loss of estate	Rs.1,00,000/-
(v)	Loss of consortium	Rs.1,00,000/-
(vi)	Loss of love and affection	Rs. 1,00,000/-
(vii)	Funeral expenses	Rs.25,000/-
	TOTAL COMPENSATION AWARDED	Rs.5,33,020/-
	Enhanced amount of compensation	(Rs.5,33,020/-)- (Rs.2,30,000/-)= Rs. 3,03,020/-

The enhanced amount of compensation of **Rs.3,03,020/-** 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.

August 24, 2015
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(**RITU BAHRI**)
JUDGE