

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

**FAO No.8883 of 2014 (O&M)
Date of decision: 18.11.2015**

Smt. Sunita and others

....Appellants

Versus

Sombir and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Jatin Hans, Advocate,
for the appellants.

Mr. Ravinder Arora, Advocate,
for respondent No.3-Insurance Company.

Mr. Banni Thomas, Advocate,
for respondent No.6-Insurance Company.

RITU BAHRI J. (Oral)

CM No.24179-CII of 2014

For the reasons mentioned in the application, same is allowed and delay of 60 days in filing of the appeal is condoned.

FAO No.8883 of 2014

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Bhiwani (hereinafter referred to as 'the Tribunal') vide award dated 30.01.2014, on account of death of Ram Kishan in a motor vehicular accident which took place on 07.12.2008. Appellant No. 1 is widow, whereas appellant Nos.2 to 4 are children of deceased Ram Kishan.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 07.12.2008, at about 12.00 A.M., deceased-Ram Kishan along with Ram Chander was going on his motorcycle bearing registration No. HR-16-E-9106 from Bhiwani to Legha. Ram Kishan was driving the said motorcycle, which was being followed by another motorcycle bearing registration No. HR-16-E-6985 being driven by Rajesh with one pillion rider namely, Joginder Singh, brother of the deceased. When they reached near Dhirana turning, a vehicle bearing registration No. HR-99-7221 being driven by Naresh Kadyan-respondent No.4 in a rash and negligent manner, came from Dhirana side and struck against the motorcycle of Ram Kishan, as a result of which, both the occupants of motorcycle fell down on the road. After the accident, respondent NO.4 fled away from the spot. In the meantime, another vehicle bearing registration No. HR-16-D-0906 came from Bhiwani side at a high speed and hit the accidental motorcycle of Ram Kishan and dragged both the occupants to some distance. He also fled away from the accident site. Ram Kishan and Ram Chander were taken to General Hospital, Bhiwani, where they were declared brought dead. On the statement of Joginder Singh, brother of deceased-Ram Kishan, FIR No.379 dated 07.10.2008, under Sections 279/304-A IPC was registered at Police Station, Sadar, Bhiwani. During investigation, offending vehicle Mahindra Max bearing No.HR-16-D-0906 was recovered by the police. The other vehicle i.e. Wagon-R bearing No.HR-99-1722 could not be traced out. 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 vehicles by respondent Nos.1 and 4 and thus, returned the finding on Issue No.1 in favour of the claimants. Ultimately, the claim petition was accepted by the Tribunal and a sum of Rs.8,27,000/- was awarded as compensation on account of death of Ram Kishan. The income of the deceased was taken as Rs.4000/- per month and 30% of the same was added as future prospects, which came to be Rs.5200/- per month. Out of this, 1/4th amount was deducted towards personal expenses of deceased. The dependency of claimants, thus, came to Rs.3900/- per annum (Rs.5200 – Rs.1300), which came to be Rs.46,800/- 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.7,02,000/-. In addition to it, Rs.1,00,000/- were awarded as loss of consortium and Rs.25,000/- as funeral expenses and transportation etc. Hence, the claimants were found entitled to total compensation of Rs.8,27,000/- 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

Learned counsel for the appellants has referred to judgment passed by the Hon'ble Supreme Court in **Pushpa and others Vs. National Insurance Co. Ltd. and another**, 2011 (3) RCR (Civil) 574, to contend that where the age of deceased was not exceeding 40 years, the compensation should be assessed by applying the multiplier of 16 as per Second Schedule.

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 passed in **Pushpa's** case (supra), **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.4000/- per month
(ii)	30% of (i) above to be added as future prospects	4000 + 1200 = Rs.5200/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	5200 – 1300 = Rs.3900/-
(iv)	Compensation after multiplier of 16 is applied	Rs.3900/- x 12 x 16 = Rs.7,48,800/-
(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.3,00,000/- (Rs.1,00,000/- each)
(viii)	Funeral expenses	Rs.25,000/-
(ix)	TOTAL COMPENSATION AWARDED	Rs.12,73,800/-
(x)	Enhanced amount of compensation	Rs.12,73,800 – 8,27,000 = Rs.4,46,800/-

The enhanced amount of compensation of **Rs.4,46,800/-** 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

18.11.2015
ajp