

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO No. 9867 of 2014

Date of decision : September 07, 2015

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Sughari and another

.....Appellants

Versus

Dinesh Kumar and others

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Shiv Kumar, Advocate for appellants.

Mr. Rajiv Sharma, Advocate for respondents no. 1 & 2.

Mr. Harsh Aggarwal, Advocate for respondent no.3.

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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

The appellants-claimants have come up in this appeal

seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Faridabad (hereinafter referred to as 'the Tribunal') vide order dated 12.8.2014. Vide the impugned award, a total compensation of Rs. 8,68,600/- has been awarded to the appellants-claimants on account of death of Chennai in a motor vehicle accident. Claimants are the widow and the daughter of the deceased.

Brief facts of the case are that on 21.3.2013 deceased along with Ramesh was going on foot to Plot No.246, Sector-24, Faridabad for doing his job. At about 7:50 a.m, they reached at the turn of plot No.136 T-Point, Sector-24, Faridabad. Ramesh was walking 3-4 steps ahead of deceased Chennai and both were walking on the extreme side of the road. In the mean time vehicle Hydra Crane bearing registration No. HR-38R-7340 being driven by its driver very rashly, negligently, carelessly and at a very high speed came from behind and hit the deceased from conductor side and front wheel of the offending crane run over the deceased from knee to head. He died at the spot. The post mortem examination on the dead body was conducted at B.K Hospital, Faridabad. On the statement of Ramesh, FIR No.125 dated 21.3.2013 under Sections 279, 304-A IPC was registered at Police Station Mujessar, Faridabad.

On account of death of Chennai, claimants-appellants filed claim petition under Section 166 of the Motor Vehicles Act, 1988 bearing MACT Case No. 172 which was partly allowed by the Tribunal and a sum of Rs.8,68,600/- was awarded as compensation

on account of death of Chennai. Income of the deceased was taken as Rs.5500/- per month. As the deceased was 45 years old, 30% of income was added towards the future prospects. Therefore, the income of the deceased after addition of the future prospects came to Rs.7150/- (RS.5500+Rs.1650/-) x 12=Rs.85,800/- per annum. 1/3rd amount of his income was deducted towards his personal expenses. Therefore the loss of dependency of the claimants came to Rs.57200/- per annum (Rs.85,500-Rs.28,600/-). After applying the multiplier of 13, the amount of compensation came to Rs.7,43,600/- (Rs.57,200x13). In addition to the aforesaid amount, the claimant was also held entitled to a sum of Rs.1,00,000/- towards loss of consortium and claimants were also held entitled to a sum of Rs.25000/- towards funeral expenses. Thus the total amount of compensation payable to the claimants came to Rs. 8,68,600/-.

Feeling dissatisfied with the impugned award, the appellants-claimants have preferred the present appeal.

I have heard the counsel for the parties and perused the records of the case. 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 is re-assessed as under:-

<i>Sr. No.</i>	<i>HEADS</i>	<i>CALCULATION</i>
(I)	Income	Rs.5500/- per month
(ii)	30% of (i) above to be added as future prospects	[Rs.5500/-+Rs.1650/-] Rs. 7150/- per month
(iii)	1/3rd of (ii) deducted personal expenses of the deceased	[Rs.7150/-]- [Rs.2383/-] =Rs.4767/- per month
(iv)	Compensation after multiplier of 13 was applied	[Rs.4767/-x12x13] Rs.7,43,652/-
(v)	Loss of consortium	Rs.1,00,000/-
(vi)	Loss of love and affection to child	Rs.1,00,000/-
(vi)	Loss of estate	Rs.1,00,000/-
(vii)	Funeral expenses	Rs.25,000/-
	TOTAL COMPENSATION AWARDED	Rs.10,68,652/-
	Enhanced amount of compensation	(Rs.10,68,652/-)- (Rs.8,68,600/-) =Rs.2,00,052/-

The enhanced amount of compensation of **Rs.2,00,052/-** 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.

Amount of Rs.25,000/- deposited by the Insurance Company shall be remitted to the claimants.

September 07, 2015
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(RITU BAHRI)
JUDGE