

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

F.A.O No. 3758 of 2002 (O&M)

Date of decision:- 22.08.2017

Saroj Rani and others

...Appellants

Versus

Nitin Sehgal and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Kanav Bansal, Advocate
for the appellants

Mr. Varun Mittal, Advocate
for respondent No. 3-Insurance Company

RITU BAHRI J. (Oral)

C.M. No. 16816-CII-2016

The present application seeking fixing of some actual date is allowed and the matter is taken up by today itself.

F.A.O No. 3758-2002

1. The present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award/order dated 11.02.2002 passed by the learned Motor Accident Claims Tribunal, Patiala (for short, 'the Tribunal') to the tune of Rs.2,30,000/-.

FACTS NOT IN DISPUTE

2. On 25.07.2000, Bal Krishan (since deceased) had gone along with Ram Gopal, Saroj Rani etc for Amarnath Yatra in a tata Sumo bearing registration No. DL-C-3CH-1669 from Patiala. They were all 18 person and in two vehicles but Bal Krishan was in the vehicle mentioned above. They

reached Jammu on 25.07.2000 in the night and they assumed their onward journey from Jammu in the morning on 26.07.2000. When they reached N.H.W Panchal police station jaggir kotli, district Jammu. When Bal Kishan along with other persons were sitting in the tea stall, a truck bearing registration No. JKC-7261 came from Udhampur side in a rash manner. The truck driver could not control the truck and it went on the wrong side and rammed into the tea stall where Bal Krishan and Ram Gopal (deceased of the other claim petition), Saroj Rani, Sanjay Kumar and others were sitting. As a result of this, Bal Krishan and Ram Gopal died at the spot whereas some other persons suffered the injuries. The accident occurred due to rash and negligent driving of respondent No. 2. F.I.R No. xx/2000 was registered under Sections 337/304-A IPC in police Station, Jhajjar.

3. The learned counsel for the claimants-appellants contends that the compensation awarded by the learned Tribunal is on the lower side and deserves to be enhanced, in view of the judgment '**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**', '**Asha Verman and others vs. Maharaj Singh and others, 2015(2) RCR (Civil) 520**' and '**Kalpanaraj and others v. Tamil Nadu State Transport Corporation, 2015(2) SCC (Civil) 193**'.

4. On the other hand, the learned counsel for the respondent has vehemently opposed the present appeal.

5. I have heard learned counsel for the parties and perused the

record.

COMPENSATION ASSESSED BY MACT

6. The learned tribunal did not accept the version of the claimants that the deceased (who was 38 years old) would earn Rs.7000/- per month as he was running a kiriyana merchant shop. Since the claimants have failed to produce any documentary evidence with regard to his income, the Tribunal took the income of the deceased at Rs.2000/- per month and cut of 1/4th was applied and thereafter, multiplier of 12 was applied. The total loss of dependency to the family comes to Rs.2,16,000/-. Further the claimants were awarded Rs.4000/- towards funeral expenses and Rs.10000 towards transportation. The total compensation of Rs.2,30,000/- were awarded to the claimants of Ram Gopal (since deceased)

RE-ASSESSED COMPENSATION

7. It is not in dispute that the offending vehicle was fully insured with the Insurance company.

8. Reference at this stage can be made to a judgment passed by Hon'ble the Supreme Court in a case of ***New India Assurance Co. Ltd v. Gopali and others, 2012 (12) SCC 198*** whereby Hon'ble the Supreme Court in an old case of 1992 had taken the monthly income of deceased at Rs.3000/- and cut of 1/10th was imposed, keeping in view the fact that a person having a minimum income of Rs.3000/- could not think of spending 1/3rd of his income on himself.

9. Keeping in view the above mentioned judgments, the compensation has to be re-assessed as follows :-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.2000/- per month
(ii)	30% of (i) above to be added as future prospects=	Rs.2000+Rs.600=Rs.2600/- per month
(iii)	1/10 of (ii) deducted as personal expenses of the deceased=	Rs.2600-Rs.260=Rs.2340 per month
(iv)	Compensation after multiplier of 15 is applied	Rs.2340 X 12 X 15= Rs.4,21,200/-
(v)	Loss of consortium	Rs.1,00,000/-
(vi)	Loss of love and affection to three minor children	Rs.3,00,000/- (Rs. 1,00,000/- to each child)
(vii)	Funeral charges	Rs.25,000/-
(viii)	Total Compensation awarded	Rs.08,46,200/-
	Enhanced amount of compensation	Rs.08,46,200-Rs.2,30,000=Rs.06,16,200/-

10. Resultantly, the enhanced amount of compensation of Rs.06,16,200/- shall be payable within a period of forty five days 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 a 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.

11. With the aforesaid modification in the impugned award, the appeal is allowed to the above extent.

22.08.2017
G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No