

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

**FAO No.1082 of 1992
Date of decision: 23.08.2017**

Sh. Vikas Kumar and another

....Appellants

Versus

Sh. Gurdev Singh and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. S.S. Chauhan, Advocate,
for the appellants.

Mr. Vinod Gupta, Advocate,
for respondent No.2-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal') vide award dated 11.11.1991, on account of death of Har Kishan Lal in a motor vehicular accident which took place on 10.07.1990. Appellants are children of deceased Har Kishan Lal.

FACTS NOT IN DISPUTE

Brief facts of the case are that on the intervening night of 9/10.07.1990, deceased-Har Krishan Lal along with his wife, Promila Gupta, married daughter Taruna Garg, Dr. Naresh Garg, Miss Parmod Balal and Mis Togita, was going from Chandigarh to Delhi in a car bearing registration No.PBW-8399. The said car was being driven by Har Krishan Lal at a normal speed and on the correct side of the road. When they

reached near Oasis Tourist Complex of Haryana Tourism near Karna Lake, Karnal, a truck bearing registration No. PIB-5733, being driven by Gurdev Singh-respondent No.1 in a rash and negligent manner, came from the side of Delhi at a very high speed and struck against the car of deceased, as a result of which, three occupants of the car namely Taruna Garg, her husband Dr. Naresh Garg and Miss Parmod Bala died at the spot, whereas Har Krishan Lal and his wife Smt. Promila Gupta died later on. With regard to the accident, FIR No.262 dated 10.07.1990, under Sections 279/337/304-A of IPC, Ex.P15, was registered at Police Station, Sadar, Karnal, against respondent No.1 on the statement of Mehar Singh (PW-9). Consequently, the claimants i.e. 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 taken place due to rash and negligent driving of the offending truck by its driver-respondent No1. Accordingly, issue No.1 was decided in favour of the claimants. This finding was rightly given on the basis of deposition of Miss Yogita (PW-4) and Mehar Singh (PW-9), who were eye witnesses of the accident. As per last pay certificate, Ex.P1, deceased Har Krishan Lal was drawing salary of Rs.3925/- per month, out of which, 50% amount was deducted towards personal expenses of deceased. The dependency of claimants, thus, came to Rs.1962 per month. As per birth certificate, the deceased was 51 years of age at the time of accident/death and the multiplier of 10 was applied. Thus, appellants-claimants were found entitled to compensation of Rs.2,35,440/- along with interest @ 12% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-

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)	Income	Rs. 3925 (rounded of Rs.4000/-) per month.
(ii)	15% of (i) above to be added as future prospects	4000 + 600 = Rs.4600/-
(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	4600 – 1533 = Rs.3067/-
(iv)	Compensation after multiplier of 11 is applied	Rs.3067 x 12 x 11 = Rs.4,04,844/-
(v)	Loss of love and affection for the children (both appellants)	Rs.1,00,000/- (Rs.50,000/- each)
(vi)	Funeral expenses	Rs.5,000/-
(vii)	TOTAL COMPENSATION AWARDED	Rs.5,09,844/-
(viii)	Enhanced amount of compensation	Rs.5,09,844 – 2,35,440 = Rs.2,74,404/-

The enhanced amount of compensation of **Rs.2,74,404/-** 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

23.08.2017
ajp

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No