

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

FAO No.1919 of 1993 (O&M)

Date of decision: 11.08.2017

Daljit Singh and another

....Appellants

Versus

Kishan Lal and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sandeep Kotla, Advocate,
for the appellants.

Mr. D.K. Mittal, DAG, Haryana.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Hisar (hereinafter referred to as 'the Tribunal') vide award dated 13.08.1993, on account of death of Balvinder Singh in a motor vehicular accident which took place on 26.07.1992. Appellants are parents of deceased Balvinder Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 26.07.1992, Balvinder Singh along with his maternal aunt Kulwant Kaur was coming back towards his village from Dhan Miankhan on a motorcycle bearing registration No. HYF-6623 and parked his motorcycle near petrol pump, Dhangar on Sirsa-Hisar road. Both of them were present at *katcha* road, in the meantime, a bus bearing registration No.HR-22-6022, being driven by Kishan Lal-respondent No.1 in a rash and negligent manner, came from the side of Fatehabad at a very high speed and struck against Balvinder Singh and

Kulwant Kaur, as a result of which, both of them received serious injuries. Due to impact of the accident, Balvinder Singh died at the spot, whereas Kulwant Kaur succumbed to the injuries in the hospital. Consequently, the claimants-appellants filed a claim petition before the Tribunal.

Upon notice, respondent No.1 filed his written statement and denied that he was driving the bus in a rash and negligent manner. It was stated that the accident had occurred because of the rash and negligent driving of motorcycle by the deceased. Respondent No.2 had taken similar pleas as that of respondent No.1

From the pleadings of the parties, following issues were framed:-

1. Whether the death of Balvinder Singh and Kulwant Kaur was the result of rash and negligent driving of bus No. HR-20-6022 by respondent No.1? OPP
2. To what amount of compensation in the respective petition, the claimants are entitled?
3. Relief.

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 bus by respondent No.1 and thus, returned the finding on issue no.1 in favour of the claimants. This finding was rightly given on the basis of deposition of Daljit Singh, who was eye witness of the accident.

While assessing compensation, the Tribunal has observed that deceased-Balvinder Singh was aged about 17 years at the time of

death/accident and was not employed anywhere. As per claimants, he had passed matriculation examination in the second division and thereafter, failed to continue his studies. His notional income was taken to be Rs.2000/- per month. The Tribunal has taken into consideration that the deceased would have got married after 4-5 years, therefore, he could assist his parents only to the tune of Rs.500-600 per month. Accordingly, annual dependency of claimants came to Rs.6000/-. After applying the multiplier of 20, the claimants were found entitled to compensation of Rs.1,20,000/- (Rs.6000 x 20). In addition to it, Rs.3000/- were awarded as funeral expenses. Hence, the claimants were found entitled to total compensation of Rs.1,23,000/- along with interest @ 12% 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

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. After going through the facts and circumstances of the case, it seems that notional income of the deceased has been taken on the lower side. In view of the judgment passed by Hon'ble the Supreme Court in **Kishan Gopal and another Vs. Lal and others**, 2013 (4) RCR (Civil) 276, notional income of Balvinder Singh-deceased should have been taken as Rs.40,000/- per annum. Accordingly, in order to meet the ends of justice, the compensation is hereby reassessed in view of the judgments passed in **Krishan Gopal's**, case (supra), ***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)	Notional Income	Rs.40,000/- per annum
(ii)	Compensation after multiplier of 17 is applied	Rs.40,000/- x 17 = Rs.6,80,000/-
(iii)	Loss of love and affection for the parents (appellants)	Rs.1,00,000/- (Rs.50,000/- each)
(iv)	Funeral expenses	Rs.5,000/-
(v)	TOTAL COMPENSATION AWARDED	Rs.7,85,000/-
(vi)	Enhanced amount of compensation	Rs.7,85,000 – 1,23,000 = Rs.6,62,000/-

The enhanced amount of compensation of **Rs.6,62,000/-** 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

11.08.2017
ajp

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No