

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

**FAO No.1291 of 1994
Date of decision: 11.10.2017**

Jaswinder Kaur and another

....Appellants

Versus

Union of India and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Saravpreet Gurna, Advocate,
for Mr. Munishwar Puri, Advocate,
for the appellants.

Mr. Shivoy Dhir, Advocate,
for respondent Nos.1 and 2.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'the Tribunal') vide award dated 12.01.1994, on account of death of Jagmohan Singh in a motor vehicular accident which took place on 29.08.1990. Appellant No.1 is widow and appellant No.2 is son of deceased-Jagmohan Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 29.08.1990, Jagmohan Singh (since deceased) along with Tara Singh was coming from Nabha to Patiala on a scooter, which was being followed by another scooter bearing registration No.PAS-9799 being driven by Jagjit Singh Sandhu. Deceased Jagmohan Singh the pillion rider, whereas the scooter was being driven by Tara Singh. When they reached near the Rohti bridge near the saw mill, a Military Jonga bearing registration No. 89-B-48844 M, being driven by Sh.

R.S. Yadav-respondent No.2 in a rash and negligent manner, came from the opposite at a high speed and struck against the scooter of Tara Singh, as a result of which, both the occupants of the scooter received injuries. Jagmohan Singh was taken to the Civil Hospital, where he was declared dead. Consequently, the claimants i.e. appellants filed a claim petition before the Tribunal.

Upon notice, respondents filed their written statement, wherein they controverted the claim of the claimants and prayed for dismissal of the petition.

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 vehicle by its driver-respondent No.2 (R.S. Yadav). Accordingly, issue No.1 was decided in favour of the claimants. In the absence of any evidence, income of deceased-Jagmohan Singh was taken as Rs.3000/- per month as he was a practising Advocate, out of which, 1/3rd amount was deducted towards personal expenses of deceased. The dependency of claimants, thus, came to Rs.2000/- per month. Since the deceased was 28 years of age, multiplier of 18 was applied. Thus, claimants were found entitled to compensation of Rs.4,32,000/- (2000 x 12 x 18) 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 passed in **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.3000/- per month.
(ii)	50% of (i) above to be added as future prospects	3000 + 1500 = Rs.4500/-
(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	4500 – 1500 = Rs.3000/-
(iv)	Compensation after multiplier of 18 is applied	Rs.3000 x 12 x 18 = Rs.6,48,000/-
(v)	Loss of consortium to the wife (appellant No.1)	Rs.1,00,000/-
(vi)	Loss of love and affection for the son (appellant No. 2)	Rs.1,00,000/-
	Loss of love and affection to the parents (respondent Nos.3 and 4)	Rs.1,00,000/- (Rs.50,000/- each)
(vii)	Funeral expenses	Rs.5,000/-
(viii)	TOTAL COMPENSATION AWARDED	Rs.9,53,000/-
(ix)	Enhanced amount of compensation	Rs.9,53,000 – 4,32,000 = Rs.5,21,000/-

The enhanced amount of compensation of **Rs.5,21,000/-** 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.

11.10.2017

ajp

(RITU BAHRI)
JUDGE

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