

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

FAO No.1381 of 1991 (O&M)

Date of decision: 11.08.2017

Bhagwati Devi and others

....Appellants

Versus

Nem Chand and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Rohit Goswami, Advocate,
for the appellants.

Mr. Neeraj Khanna, Advocate,
for respondent No.2-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Faridabad (hereinafter referred to as 'the Tribunal') vide award dated 02.08.1991, on account of death of Sham Sunder in a motor vehicular accident which took place on 06.08.1990. Appellant No. 1 is widow, whereas appellant Nos.2 to 7 are children of deceased Sham Sunder.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 06.08.1990, at about 12.30 P.M, Sham Sunder (since deceased) was going towards his office on a rickshaw. The rickshaw was being driven by Ramesh Kumar Sharma. On reaching near Government School, Ballabgarh, driver of the rickshaw took a turn towards Chawla Colony, in the meantime, an auto rickshaw bearing registration No. HYU-6040, being driven by its driver in a rash and

negligent manner came from the side of Tigaon and struck against the

rickshaw, as a result of which, Sham Sunder fell down on the road and received head injury. He was taken to Civil Hospital, Ballabgarh, however, he succumbed to the injuries in the way. With regard to the accident, an FIR Ex.R4 was registered. Consequently, the claimants-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 been caused on account of rash and negligent driving of offending auto rickshaw by Hari Singh and thus, returned the finding on Issue No.1 in favour of the claimants. As per salary certificate, Ex.P1, for the month of July, 1990, deceased was getting salary of Rs.4007.90 ps per month. He had also got an increment of Rs.600/-. Therefore, the income of the deceased was taken as Rs.4608/- per month, out of which, 1/3rd amount was deducted towards personal expenses of deceased. The Tribunal has further observed that after retirement, the deceased would have got very meagre pension. The dependency of claimants, thus, came to Rs.2000/- per month i.e. Rs.24,000/- per annum. The deceased was 44 years of age at the time of accident/death and the multiplier of 20 was applied. Thus, the claimants were found entitled to compensation of Rs.4,80,000/- (Rs.24,000 x 20) 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. 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.4600/- per month.
(ii)	30% of (i) above is added towards future prospects	4600 + 1380 = Rs.5980/-
(iii)	1/5 th of (ii) above is deducted as personal expenses of the deceased	5980 – 1196 = Rs.4784/-
(iv)	Compensation after multiplier of 13 is applied	Rs.4784/- x 12 x 13 = Rs.7,46,304/-
(v)	Loss of consortium for the widow (appellant No.1)	Rs.1,00,000/-
(vi)	Loss of love and affection for the children (appellant Nos.2 to 7.)	Rs.3,00,000/- (Rs.50,000/- each)
(vii)	Funeral expenses	Rs.5,000/-
(xiii)	TOTAL COMPENSATION AWARDED	Rs.11,51,304/-
(ix)	Enhanced amount of compensation	Rs.11,51,304 – 4,80,000 = Rs.6,71,304/-

The enhanced amount of compensation of **Rs.6,71,304/-** 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