

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

FAO No.352 of 2001

Date of Decision: 20.09.2017

Bimla and others

.....Appellants

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Gurpreet Singh, Advocate, for appellant No.2.

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

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 05.10.1999, passed by the learned Motor Accident Claims Tribunal, Rohtak (for short, 'the Tribunal') vide which compensation to the tune of Rs.1,92,000/- was awarded to the claimants on account of death of Ram Chander.

FACTS NOT IN DISPUTE

On 28.03.1998, the deceased Ram Chander was going to Sirsa to give delivery of a tractor to the agency at Sirsa of "Eichar Tractors". He started in the morning from Faridabad alongwith four other tractors. When he reached near octroi post Fatehabad on Hissar-Sirsa road at about 12:30 noon, a Haryana Roadways bus bearing No.26-A/1338 came from back side i.e. from the side of Hissar at a very high speed and in a negligent manner. The bus hit the tractor of Ram Chander from behind, although he was going on his left side of the road. Subhash son of Het Ram who was sitting on the tractor alongwith Ram Chander, was fell from the tractor. The deceased

Ram Chander received multiple injuries. He was taken to Civil Hospital, Fatehabad by driver of the other tractor in the same bus where he breathed his last. Thus, it was alleged that the accident occurred due to rash and negligent driving of the bus by respondent No.3.

Respondent No.1 and 2 appeared and contested the petition, but respondent No.3 did not appear despite due notice and was proceeded against ex-parte vide order dated 19.12.1998.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 52 to 55 years old and the claimants failed to produce on the record any documentary evidence regarding income of the deceased. The factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company.

Sr.No.	Heads of compensation	Amount
1	Income	Rs.3000/-
2.	Deduction 1/3rd	Rs.3000/- Rs.1000= Rs.2000/-
3.	Annual loss of dependency	Rs.2,000/- X 12 X 8= Rs.1,92,000/-
	Total	Rs.1,92,000/-

Learned counsel for the claimant-appellant contends that the compensation awarded by the 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;** **'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 thers, 2015(2) RCR (Civil) 520 and Kalpanaraj and others v. Tamil Nadu State Transport Corporation, 2015(2) SCC (Civil)**

193. Learned counsel submits that the loss of consortium awarded by the Tribunal is on the lower side and further nothing has been awarded towards love and affection to parents, who were fully dependent upon the deceased. On the other hand, the learned counsel for the respondents have vehemently opposed the present appeal.

RE-ASSESSED COMPENSATION

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

It is not in dispute that the offending vehicle was fully insured with the Insurance company. Following the ratio of law laid down by Hon'ble the Supreme Court in the above mentioned judgments, the compensation has to be re-assessed as follows:-

Sr.No.	Heads of compensation	Amount
1	Income	Rs.3000/- per month
2.	Deduction 1/3rd	Rs.3000/- Rs.1000= Rs.2000/-
3.	Annual loss of dependency	Rs.2,000/- X 12 X 13= Rs.3,12,000/-
4.	Love and affection 1.Widow Smt.Bimla- Rs.1,00,000/- 2.Surender-Rs.50,000/- 3.Smt.Raj Bala- Rs.1,00,000/- 4.Narender-Rs.50,000/-	Rs.3,00,000/-
5.	Funeral expenses	Rs.25,000/-
	Total	Rs.6,37,000/-
	Enhanced compensation	Rs.6,37,000/- ---- Rs.1,92,000/- =Rs.4,45,000/-

Resultantly, the enhanced amount of compensation of Rs.4,45,000/- 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. With the aforesaid modification in the impugned award, the appeal is allowed to the above extent.

(RITU BAHRI)
JUDGE

20.09.2017

anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No