

In the High Court of Punjab and Haryana at Chandigarh

FAO No. 3228 of 2006 (O&M)

Date of Decision: 23.8.2017

Harbhajan Kaur and others

.....Appellants

Versus

Balkar Singh and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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

Ms. Vandana Malhotra, Advocate
for respondent No. 3.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants') Harbhajan Kaur, Bachittar Singh and Sarabjit Kaur, against award dated 7.4.2006, passed by the learned Motor Accident Claims Tribunal, Ferozepur (for short, 'the Tribunal') whereby in a claim petition filed under Section 166 and 140 of the Motor Vehicles Act, they have been awarded Rs. 1,38,900/- on account of death of Sarabjit Singh.

FACTS NOT IN DISPUTE

On 16.5.2000, at about 3.30 P.M. Tarlochan Singh-complainant along with his uncle Gurcharan Singh were going from Basti Bhag Singh to Ferozepur Cantt on a scooter driven by Tarlochan Singh. When his scooter was one killa away from the link road, Basti Bhai Ke, Dakhli Dastul Sahib, they saw two youngmen coming on a scooter from the opposite direction. A truck bearing registration No. HR-26-A-7715 driven by Balkar Singh-

respondent No. 1 came at a high speed and in a rash and negligent manner

and struck against the scooter of the deceased. Both the youngmen fell on the kacha path of the road and received injuries. The complainant identified the driver of the scooter as Kuldip Singh and Sarabjit Singh alias Sukhjinder Singh alias Babbu. Both the injured died at the spot. The truck driver left the truck at the spot and fled away.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 25 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.

The parties are not in dispute with respect to the date of the accident and the negligence of the driver-respondent No. 1. The compensation has been awarded to the claimants taking the deceased Sarabjit Singh to be 25 years old bachelor and his income was taken as Rs. 2400/- per month and his dependency was taken as Rs. 1600/- per month. The compensation has been assessed as Rs. 1,92,000/- As it was held to be a case of contributory negligence, therefore, 30% was deducted and the compensation amount came to Rs. 1,34,400/-. Rs. 2,000/- was awarded for cremation and last rites and Rs. 2500/- for loss of estate. The total compensation of Rs. 1,38,900/- was awarded to the claimants.

Learned counsel for the claimants-appellants 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 compensation awarded by the Tribunal is on the lower side and further nothing has been awarded towards love and affection to parents and to the sister, 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. The age of the deceased was 25 years. 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 per month	Rs.2400/- per month
2.	Future prospect (50%)	Rs. 2400/- + Rs. 1200/-= Rs. 3600/-
3.	After deduction of 50% towards personal expenditure	Rs. 3600 – 1800 = 1800/-
4.	After applying multiplier	Rs. 1800/- x 12 x 18= Rs. 3,88,800/-
5.	Last rites expenses	Rs. 25,000/-
6.	For loss of love and affection to the parents	Rs. 1,00,000/-
7.	For loss of love and affection to the sister	Rs. 50,000/-

8.	Total	Rs. 5,63,800/-
9.	Total compensation after deducting 30% towards contributory negligence	Rs. 5,63,800/- - 1,69,140/- = Rs. 3,94,660/-
10.	Enhanced compensation	Rs. 3,94,660 - Rs. 1,38,900 = Rs. 2,55,760/-

Resultantly, the enhanced amount of compensation of Rs. 2,55,760/- 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

August 23, 2017
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : No