

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

FAO-2455-2011

Date of decision:- 01.08.2017

Savita Devi and others

....Appellants

Versus

Sulakhan Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. R.D. Sharma, Advocate
for the appellants.

Mr. Gopal Mittal, Advocate
for Mr. Pardeep Goyal, Advocate
for respondent No.3.

RITU BAHRI J. (Oral)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against Award dated 05.10.2010, passed by the learned Motor Accident Claims Tribunal, Gurdaspur (for short, 'the Tribunal') to the tune of ₹3,28,400/-.

FACTS NOT IN DISPUTE

On 04.10.2005, Avtar Singh (since deceased) was coming from Reliance Petrol Pump, Chhatwal to his home at village Chhatwal on his personal car bearing registration No.PB-07-F-0993 on the left side of the road at a very normal speed. When he reached near New Colony Chhatwal in front of Dera Gujran, on the turn a truck bearing registration No.PID-9745 was parked by its driver i.e. respondent No.1-Sulakhan Singh in the

middle of the metaled road in a rash and negligent manner. The deceased could not see the truck parked on the metaled road due to the turn and flash lights of some other vehicles coming from the opposite side and his car dashed with the truck bearing registration No.PID-9745 and he received serious multiple injuries on his head and other parts of the body. He was remained under treatment w.e.f. 04.10.2005 to 07.10.2005 and succumbed to injuries on 07.10.2005.

Consequently, the claimants-appellants had filed a claim petition before the Tribunal.

Before the Tribunal, on the basis of the evidence led by the parties, the Tribunal did not accept the version of the claimants that the deceased (who was 30 years old) would earn ₹15,000/- per month as they have failed to produce any documentary evidence with regard to his income. The Tribunal took the income of the deceased at ₹2,400/- per month and cut of 1/3rd was applied and thereafter, multiplier of '17' was applied. Thus, the claimants were found entitled to compensation of ₹3,26,400/-. Further the claimants were awarded ₹2000/- towards funeral expenses. As such, the total compensation comes to ₹3,28,400/-.

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' and '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 others, 2015(2) RCR (Civil) 520 and Kalpanaraj and others Vs. Tamil Nadu State Transport Corporation, 2015(2) SCC (Civil) 193. Moreover, in this case the deceased did not have the parents and he supported his sister.

On the other hand, the learned counsel for respondent No.3 has vehemently opposed the present appeal.

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

RE-ASSESSED COMPENSATION

It is not in dispute that the offending vehicle was fully insured with the Insurance company.

Reference, at this stage, can be made to a judgment passed by Hon'ble the Supreme Court in a case of **New India Assurance Co. Ltd Vs. Gopali and others, 2012 (12) SCC 198** whereby Hon'ble the Supreme Court in an old case of 1992 had taken the monthly income of deceased at ₹3000/- and cut of 1/10th was imposed, keeping in view the fact that a person having a minimum income of ₹3000/- could not think of spending 1/3rd of his income on himself.

Keeping in view the above mentioned judgments, the compensation has to be re-assessed as follows :-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	₹2,000/- per month
(ii)	50% future prospects	₹2,000 + ₹1,000=₹3,000/- per month
(iii)	1/3 rd deducted as personal expenses of the deceased	₹3,000 - ₹1,000 = ₹2,000 per month
(iv)	Compensation after multiplier of '17' is applied	₹2,000 x 12 x 17= ₹4,08,000/-
(v)	Loss of consortium	₹1,00,000/-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(vi)	Loss of love and affection to daughter	₹50,000/-
(vii)	Loss of love and affection to sister-respondent No.4, who has now got married	₹50,000/-
(viii)	Funeral charges	₹25,000/-
	Total Compensation awarded	₹6,33,000/-
	Enhanced amount of compensation	₹6,33,000 - ₹3,28,400/- = ₹3,04,600/-

Resultantly, the enhanced amount of compensation of ₹3,04,600/- 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. It is clarified that out of the enhanced compensation, only Rs.50,000/- will be disbursed to respondent No.4 and 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.

August 01, 2017
naresh.k

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No