

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

**FAO No.1396 of 2012 (O&M)
Date of decision: 02.08.2017**

Kulwinder Devi and others

....Appellants

Versus

Kulwinder Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Vikram Bali, Advocate,
for the appellants.

None for respondent No. 2.

Ms. Vandana Malhotra, Advocate,
for respondent No.3-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, Shaheed Bhagat Singh Nagar (hereinafter referred to as 'the Tribunal') vide award dated 28.02.2011, on account of death of Sukhdev Raj in a motor vehicular accident which took place on 19.06.2009. Appellant No. 1 is widow and appellant Nos.2 & 3 are children of deceased Sukhdev Raj.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 19.06.2009, Sukhdev Raj (since deceased) was going from Rahon to Nawanshahr on a motorcycle bearing registration No. PB-32-H-0215. At about 8:30 P.M., when he

reached near village Jafarpur, a Tata Safari bearing registration No. PB-08-AU-0039 being driven by Gaurav Dham-respondent No.2 in a rash and negligent manner, came from the opposite side and struck against the motorcycle of Sukhdev Raj, as a result of which, he fell down on the road and received multiple and serious injuries. Later on, he died on the way to hospital. With regard to the accident, an FIR No. 64 dated 20.06.2009 was recorded at Police Station, Sadar, S.B.S. Nagar. 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 vehicle (Tata Safari) by respondent No.2 and thus, returned the finding on issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of Baldev Raj (PW-2), who was an injured eye witness of the accident. Moreover, FIR, Ex.P2, in this regard, was also got registered on the basis of statement made by another eyewitness Mohinder Pal.

Deceased-Sukhdev Raj was working as constable in Punjab Police and was posted at Sangrur. As per salary certificate, Ex.P1, gross salary of the deceased was Rs.17,285/-, out of which, Rs.2030/- were being deducted as GPF/CIS. Hence, the carry home salary of Sukhdev Raj was Rs.15,255/-. While including the GPF amount, the Tribunal had taken income of the deceased as Rs.15,498/- per month. 50% of the salary has been added on account of future prospects, which came to be Rs.23,247/-. Out of this, 30% was deducted towards income tax and by doing so, income of deceased came to be Rs.16,273, out of which 1/3rd amount was deducted

towards his personal expenses. The dependency of claimants, thus, came to Rs.10,849/- per month i.e. Rs.1,30,188/- per annum. As per postmortem report, Sukhdev Raj was 30 years of age at the time of accident/death and the multiplier of 16 was applied. Thus, the claimants were found entitled to compensation of Rs.20,83,008/- (Rs.1,30,188 x 16). In addition to it, Rs.2000/- were awarded as funeral expenses, Rs.2500/- as loss of estate and Rs.5000/- on account of loss of consortium to the widow (appellant No.1). Hence, the claimants were found entitled to total compensation of Rs.20,92,508/- along with interest @ 6% 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. It is not in dispute that the deceased was working as constable in Punjab Police and as per salary certificate, Ex.P1, he was getting gross salary of Rs.17,285/- per month. Accordingly, the income of the deceased is being taken as Rs.17,285/- per month. The accident in question had taken place in the year 2009. As per the identity card of the deceased, his date of birth was 04.05.1973 and at the time of death/accident, he was 36 years of age. As such, multiplier of 15 should have been applied in this case, in place of 16. 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.17,285/- per month
(ii)	50% of (i) above is added towards future prospects.	17,285 + 8642 = Rs.25,927/- per month i.e. Rs.3,11,124/- per annum
(iii)	Deduction out of (ii) above on account of income tax	3,11,124 - 17,226 = Rs.2,93,898/-
(iv)	1/3 rd of (iii) above is deducted as personal expenses of the deceased	2,93,898 - 97,966 = Rs.1,95,932/-
(v)	Compensation after multiplier of 15 is applied	Rs.1,95,932/- x 15 = Rs.29,38,980/-
(vi)	Loss of consortium for the widow (appellant No.1)	Rs.1,00,000/-
(vii)	Loss of love and affection for the children (appellant Nos.2 & 3)	Rs.2,00,000/- (Rs.1,00,000/- each)
(viii)	Funeral expenses	Rs.25,000/-
(ix)	TOTAL COMPENSATION AWARDED	Rs.32,63,980/-
(x)	Enhanced amount of compensation	Rs.32,63,980 - 20,92,508 = Rs.11,71,472/-

The enhanced amount of compensation of **Rs.11,71,472/-** 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

02.08.2017

ajp

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No