

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

F.A.O No. 6129-2011

Date of decision:- 07.07.2017

Niranjan and another

...Appellants

Versus

Mukesh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. P.R. Yadav, Advocate, for the appellants.

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 13.06.2011, passed by the learned Motor Accident Claims Tribunal, Rewari (for short, 'the Tribunal') to the tune of ₹4,13,200/-.

FACTS NOT IN DISPUTE

On 19/20.07.2009, Montu (now deceased) had gone to Dharuhera to take care of his brother Jitender as he was bringing Kawad from Haridwar. When Mintu did not reach home till night, then Jitender and his father Niranjan went in search of Montu. They found deceased Montu lying near housing board cut on NH-8 near Dharuhera in injured condition. Montu had suffered multiple injuries on various parts of his body including head injuries. He was taken to Apex Trauma Centre, Dharuhera and thereafter he was referred to Safdarjung Hospital, New Delhi where he succumbed to his injuries on 21.07.2009. F.I.R was also registered.

The Tribunal held that the deceased was 20 years old and the claimants failed to produce on the file 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.

COMPENSATION ASSESSED BY MACT

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	₹4800/- per month
(ii)	Less ½ on account of dependency	₹2400 x 12 = ₹28,800
(iii)	Compensation after multiplier of 14 is applied	₹28,800 X 14 = ₹4,03,200/-
(iv)	Funeral expenses	₹10000/-
	Total compensation	₹4,13,200/-

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 others**, 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.

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.

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	Calculations
(i)	Salary	₹4,800/- per month
(ii)	50% future prospects	₹4800/- + ₹2400/- = ₹7,200/-
(iii)	Less ½ on account of dependency	₹3600 x 12 = ₹43,200/-
(iv)	Compensation after multiplier of 18 is applied	₹43,200 X 18 = ₹7,77,600/-
(v)	Funeral expenses	₹25,000/-
(vi)	Loss of love and affection	₹1,00,000 (₹50,000/- each)
(vii)	Total Compensation awarded	₹9,02,600/-
(viii)	Enhanced amount of compensation	₹9,02,600 – ₹4,13,200 = ₹4,89,400/-

Resultantly, the enhanced amount of compensation of ₹4,89,400/- 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.

July 07, 2017
naresh.k

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No