

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.2631 of 2012
Date of Decision: 06.11.2017

Paramjit Kaur and others

.....Appellants

Vs.

Lal Singh and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Rajbir Singh, Advocate, for the appellants.

Mr.T.K.Joshi, Advocate, for respondent/Insurance Co.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 24.01.2012, passed by the learned Motor Accident Claims Tribunal, Sangrur (for short, 'the Tribunal') vide which compensation to the tune of Rs.6,05,976/- was awarded to the claimant on account of death of Jaipal Singh son of Hardit Singh.

FACTS NOT IN DISPUTE

On 11.01.2010, the deceased Jaipal Singh was going from Sangrur to Dhuri on his motorcycle bearing registration No.PB 13V 3812, at or around 11:00 p.m. when reached near village Benra on the main road, a tempo bearing registration No.PB 11L 2331 came from opposite side being driven by first respondent in a rash and negligent manner and hit the motor cycle which the deceased was driving. On account of the accident, the deceased fell down on the road and suffered multiple grievous injuries leading to instantaneous death of the deceased. At the time of accident, the deceased was being followed by Satname Singh son of Mohinder Singh of village Benra. In respect of the accident an FIR No.5 dated 12.01.2010 under Sections 304-A and 427 IPC was registered at Police Station, Dhuri.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 30 years old as per his postmortem report Ex.A2 but in their application, it was claimed by the applicants that at the time of death the deceased was 31 years of age and as such the age of the deceased was taken 31 years 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	Salary per annum	Rs.4,104/- X 12= Rs.49,248/-
2.	Deduction 1/4th	Rs.49,248/--Rs.12,312/- =Rs.36,936
3.	Total loss of dependency after applying the multiplier	Rs.36,936/- X 16= Rs.5,90,976/-
4.	Loss of estate	Rs.5,000/-
5.	Funeral Expenses	Rs.5,000/-
6.	Loss of consortium	Rs.5,000
	Total	Rs.6,05,976/-

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'; National Insurance Company Ltd. Vs. Pranay Sethi and others SLP(C) 25590 of 2014 decided on 31.10.2017 and V.Mekala Vs. M.Malathi and anr., 2014 STPL (Web) 339 SC.** 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. Applicants claimed a compensation Rs.15,00,000/- as the deceased was 31 years old at the time of accident and he was earning Rs.15,000/- per month by working as sales representative. But no evidence had been produced by the applicants that deceased was earning Rs.15,000/- per month. Though, AW3 Harish Kumar in his affidavit Ex.AW3/A had tendered in his cross-examination that deceased was getting Rs.5,000/- per month plus incentives as per his performance. Since, the learned Tribunal had been taken the income of

the deceased a a unskilled labourer but deceased was a sales representative and skilled educated person and in view of the above judgment (**V.Mekala Supra**), the income of the deceased is taken as Rs.6,000/- per month.

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	Salary per month	Rs.6000/-
2.	Future prospect 40%	Rs.6,000/- + Rs.2400/-=Rs.8400/-
3.	Deduction 1/4 th	Rs.8400/- ---Rs.2100/-= Rs.6300/-
4.	Annual loss of dependency after applying the multiplier as per postmortem report Ex.A2	Rs.6300/- X 12 X 16= Rs.12,09,600/-
5.	Conventional heads	Rs.70,000/-
	Total	Rs.12,79,600/-
	Enhanced amount of compensation	Rs.12,79,600/- ----Rs.6,05,976/- =Rs.6,73,624/-

Resultantly, the enhanced amount of compensation of Rs.6,73,624/- 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

06.11.2017

anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No