

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

F.A.O No. 3554 of 2012 (O&M)

Date of decision:-24.07.2017

Savinder Kumar and another

...Appellants

Versus

Ajaib Singh and others

...Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ishan Cooner, Advocate, for the petitioner.

Mr.Puneet Sharma, Advocate, for respondent No.3.

RITU BAHRI, J. (Oral)

CM No.15599-CII of 2012

For the reasons stated in the application, delay of 944 days in filing the appeal is condoned.

Application stands disposed of.

Main Case

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 01.06.2009, passed by the learned Motor Accident Claims Tribunal, Tarn Taran (for short, 'the Tribunal') to the tune of Rs.1,56,000/-

FACTS NOT IN DISPUTE

On 08.11.2006, Nishan Singh alongwith Sukhdev Singh and Daljit Singh were repairing a truck bearing No.RJ-19G-7199 which was lying kachacha portion of the road with its fact towards Sarhali side within the area of village Usma, on Tarn Taran to Sarhali Road in the meantime at

about 5:30 am when the deceased was in the process of coming out from underneath of the Truck No.RJ-19G-7199, a Canter bearing registration No.PB-06-D-2053 being driven by respondent No.1 came from behind and hit Nishan Singh as well as Truck No.RJ-19G-7199 by going on the extreme left side of the road on kachcha berm. As a result Nishan Singh sustained multiple simple and grievous injuries and taken to the Civil Hospital, Tarn Taran where he died on account of injuries sustained by in this accident. The truck No.RJ-16G-7199 was also damaged badly.

The Tribunal held that the deceased was 18 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	Rs.1875/- per month
(ii)	Less 1/3 on account of dependency	Rs.1875- Rs.625 = Rs.1250/-
(iii)	Income per annum	Rs.1250 X 12= 15,000/-
(iv)	After applying multiplier	Rs.15,000 X 10= Rs.1,50,000/-
(v)	Funeral expenses + cost of claim petition	Rs.5,000/- + 1000= Rs.6,000/-
	Total	Rs.1,56,000/-

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:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary (Rs.3250/ X 12)	Rs.40,000/- Approx. per annum
(ii)	Less 1/3on account of dependency	Rs.40,000/- --13,000/-= Rs.27,000/-
(iii)	Applying multiplier as per as	Rs.27,000/- X 18= Rs.4,86,000/-
(iv)	Funeral expenses + Cost of claim	Rs.5,000/- + Rs.1000/-= Rs.6,000/-
	Total	Rs.4,92,000/-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
	Difference of compensation	Rs.4,92,000/- --- Rs.1,56,000/-= Rs.3,36,000/-

Resultantly, the enhanced amount of compensation of Rs.3,36,000/- 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 14, 2017
anil

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No