

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

F.A.O No. 5399 of 2012

Date of decision:- 03.10.2017

Sukhvinder Kaur and others

...Appellants

Versus

Paramjit Singh & others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Ms. S.P.K. Phoolka, Advocate for
Mr. P.K.S. Phoolka, Advocate
for the appellants.

Mr. Lalit Garg, Advocate
for the respondent-Insurance Company

RITU BAHRI J. (Oral)

C.M. No. 24254-CII-2012

For the reasons mentioned in the application, 112 days in filing
of the appeal is hereby condoned.

The application stands disposed of.

FAO No. 5399-2012

1. The present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award/order dated 06.02.2012 passed by the learned Motor Accident Claims Tribunal, Bathinda (for short, 'the Tribunal') to the tune of Rs.4,95,000/-.

FACTS NOT IN DISPUTE

2. On 19.06.2008, Darshan Singh (since deceased) who was working as a driver on a tractor with VRC company, engaged in the construction of Guru Gobind Singh refinery at Phullo Khari, District Bathinda. Paramjit Singh was driving the offending dumper bearing

registration No. HR-67-5032 and at 12.50 P.M, Darshan Singh alighed from his tractor and he was going for urination and in the meanwhile, respondent No. 1 drover his dumper in a reverse side at a high speed and hit Darshan Singh, resulting into fatal and serious injuries to him, causing his death at the spot.

3. The learned counsel for the claimants-appellants contends that the compensation awarded by the learned 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 v. Tamil Nadu State Transport Corporation, 2015(2) SCC (Civil) 193*".

4. On the other hand, the learned counsel for the respondent-Insurance Company has vehemently opposed the present appeal.

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

COMPENSATION ASSESSED BY MACT

6. The learned tribunal held that the deceased was about 43 years. The tribunal took the monthly salary of the deceased at Rs.4000/- per month. 1/3rd deducted towards his personal expenses. The dependency of the claimants comes to Rs.32,400/- per annum. Multiplier of 15 was applied. Rs.5,000/- was given towards loss of consortium. The total amount of Rs.4,95,400/- was awarded to the claimants. However, since respondent No.

1 was possessing valid driving licence for LMV at the time of incident on 19.06.2008 and endorsement for HTV is dated 02.09.2008, respondent-Insurance Company was given recovery rights on the ground that the driver was not holding valid licence for driving a HTV.

RE-ASSESSED COMPENSATION

7. It is not disputed between the parties that the accident had taken place and further respondent No. 1 was not holding the valid driving licence. The offending vehicle was insured with the Insurance Company.

8. 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 v. 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 Rs.3000/- and cut of 1/10th was imposed, keeping in view the fact that a person having a minimum income of Rs.3000/- could not think of spending 1/3rd of his income on himself.

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

Sr. No.	Heads	Calculations
(i)	Salary	Rs.4000
(ii)	30% of (i) above to be added as future prospects=	Rs.4000+Rs.1200=Rs.5200/-
(iii)	1/10 of (ii) deducted as personal expenses of the deceased=	Rs.5200-520=Rs.4680/-
(iv)	Compensation after multiplier of 14 is applied	4680X12X14=Rs.07,86,240/-
(v)	Loss of consortium	Rs.1,00,000/-
(vi)	Loss of love and affection to two minor children	Rs.2,00,000/-
(vii)	Loss of love and affection to parents	Rs.1,00,000/- (Rs.50,000/- each)
(viii)	Funeral charges	Rs.25,000/-
(ix)	Total Compensation awarded	Rs.12,11,240/-
	Enhanced amount of compensation	Rs.12,11,240-Rs.4,95,000=Rs.07,16,240/- rounded of to Rs.07,16,000/-

10. Resultantly, the enhanced amount of compensation of Rs.7,16,000/- 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 and further respondent No. 3- Insurance Company has the recovery rights to recovery the entire amount of compensation from respondent No. 1 and 2, in accordance with law.

10. With the aforesaid modification in the impugned award, the appeal is allowed to the above extent.

03.10.2017

G Arora

(***RITU BAHRI***)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No