

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

**FAO No.10417 of 2014 (O&M)
Date of decision: 23.08.2017**

Balwan Singh

....Appellant

Versus

Azad singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Vishal Nehra, Advocate,
for the appellant.

Mr. D.K. Prajapati, Advocate,
for Mr. R.S. Madan, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

CM No.28735-CII of 2014

In view of the averments mentioned in the application, same is allowed and delay of 480 days in filing of the appeal is condoned.

FAO No.10417 of 2014

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Sonapat (hereinafter referred to as 'the Tribunal') vide award dated 13.12.2012, on account of death of Smt. Mewa Devi in a motor vehicular accident which took place on 25.02.2010.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 25.02.2010, Mewa Devi (since deceased) along with other persons was going from village Ridhana

to Rohtak in a bus bearing registration No. HR-46-B-2944. The said bus was being driven by its driver at a normal speed. At about 7.00 A.M., when they reached near the fields of Satpal Namberdar of their village, a truck bearing registration No. HR-67-B-2719 being driven by respondent No.1 in a rash and negligent manner, came from the side of village Dhanana and struck against the bus, as a result of which, all the occupants suffered multiple grievous injuries. The injured were shifted to PGIMS, Rohtak. However, Mewa Devi succumbed to the injuries during treatment. With regard to the accident, FIR No.32 dated 25.02.2010, under Sections 279, 337 and 304-A IPC was registered at Police Station, Baroda. Consequently, the claimant-appellant 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 by its driver-respondent No.1 and thus, returned the finding on issue no.1 in favour of the claimant. This finding was rightly given on the basis of deposition of Devender Singh-claimant (PW-1), who was injured eye witness of the accident and the fact that FIR Ex.P1 was registered against respondent No.1.

Deceased-Mewa Devi was a house-wife. In the absence of any documentary evidence, income of deceased was assessed as Rs.3000/- per month, out of which, 50% amount was deducted towards her personal expenses. The dependency of claimant, thus, came to Rs.1500/- per month i.e. Rs.18,000/- per annum. As per matriculation certificate, the deceased was 57 years of age at the time of accident/death and the multiplier of 9 was applied. Accordingly, amount of compensation came to Rs.1,62,000/-. In

addition to this, Rs.10,000/- were awarded towards loss of consortium and Rs.10,000/- towards transportation/funeral expenses and loss of estate. Thus, appellant-claimant was found entitled to compensation of Rs.1,82,000/- along with interest @ 7.5% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-appellant has 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. 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. 4600/- per month.
(ii)	15% of (i) above to be added as future prospects	4600 + 690 = Rs.5290/-
(iii)	1/10 th of (ii) above is deducted as personal expenses of the deceased	5290 – 529 = Rs.4761/-
(iv)	Compensation after multiplier of 9 is applied	Rs.4761 x 12 x 9 = Rs.5,14,188/-
(v)	Loss of consortium for the appellant	Rs.1,00,000/-

(vi)	Funeral expenses	Rs.25,000/-
(vii)	TOTAL COMPENSATION AWARDED	Rs.6,39,188/-
(viii)	Enhanced amount of compensation	Rs.6,39,188 – 1,82,000 = Rs.4,57,188/-

The enhanced amount of compensation of **Rs.4,57,188/-** 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

23.08.2017
ajp

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No