

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

**FAO No. 241 of 2013
Date of decision:- 03.07.2017**

Fajruddin and others ...Appellants
Versus

Dharamvir Yadav and others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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

Mr. Arun Sharma, Advocate
for respondent No. 2

Mr. S.K. Verma, Advocate for Mr. S.K. Bawa, Advocate for
respondent No. 3

RITU BAHRI J.

1. The present appeal has been preferred by the claimants-appellants (for short 'the appellants') against the award passed by the learned Motor Accident Claims Tribunal, Nuh (for short, 'the Tribunal') to the tune of Rs.7,73,800/-, vide impugned award dated 07.11.2012 in favour of appellant No. 3 to 5 (minor children of the deceased).

Facts not in dispute

2. On 15.05.2011, Pummy and others were coming from rewari to Nuh in the Maruti van of deceased Abdul Sattar (son of appellant Nos. 1 and 2). At about 5:30 P.M, when they reached near Arawali Hut, one tractor loaded with bricks was going in front of the Maruti van. Thereafter, the tractor suddenly took emergency brakes, as a result of which the Maruti van

hit the trolley of the said tractor from behind. Due to this accident, the deceased and other passengers suffered injuries. The deceased was taken to Dharuhera hospital where he died during treatment. The accident took place due to rash and negligent driving of the offending vehicle by respondent No. 1.

COMPENSATION ASSESSED BY THE MACT

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.4500/- monthly
(ii)	Future Prospects	Rs.4500+30%=Rs.5850/-
(ii)	Personal expenses	Rs.5850X1/3 rd =Rs.3900/-
(iii)	Compensation after multiplier of 16 is applied	3900X12X16=Rs.7,48,800/-
(iv)	Compensation on account of funeral expenses	Rs.10,000/-
(v)	Loss of consortium	Rs.10,000/-
(vi)	Transportation Expenses	Rs.5000/-
	Total Compensation	Rs.7,73,800/-

3. Feeling dissatisfied with the impugned award, the claimants i.e parents of the deceased as well as minor children preferred the present appeal.

Arguments Advanced

4. The learned counsel for the claimants-appellant contends that the learned Tribunal has wrongly denied compensation to appellant Nos. 1 and 2 (parents of the deceased) on the sole ground that they were living separately from the deceased for the last 4-5 years and thus they were not dependent upon the deceased. It has been wrongly held that the appellant

Nos. 1 and 2 were not dependent upon deceased. It has been argued that the learned Tribunal has illegally given the whole amount to the wife and children of the deceased. The wife of the deceased is now married with some other person, as per information given by Sarpanch of the village (Annexure A-2). Learned counsel further submitted that the children of the deceased are living with appellant Nos. 1 and 2.

Reference has been made to judgments titled as '**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**', .

REASSESSED COMPENSATION

6. I have heard learned counsel for the parties and perused the case file.

7. The factum of accident is admitted by both the parties and the driving licence of the driver and the vehicle was insured with the Insurance Company is also not being disputed by the parties. Once the wife of the deceased is re-married and children are living with grand parents i.e appellants Nos 1 and 2, at this stage, it is difficult to recover the amount from the wife of the deceased, who has been re-married. However, the parents and minor children are entitled for love and affection, in view of the above mentioned judgments.

8. In view of the discussion made above, the present appeal is

disposed of and the appellants are held entitled to compensation mentioned below:-

Re-assessed compensation

Sr. No.	Heads	Calculations
(i)	Salary	Rs.4500/- monthly
(ii)	Future Prospects	Rs.4500+30%=Rs.5850/-
(ii)	Personal expenses	Rs.5850-1/3 rd =Rs.3900/-
(iv)	Compensation after multiplier of 16 is applied	3900X12X16=Rs.7,48,800/-
(v)	Loss of love and affection to two children	Rs.2,00,000/- (Rs. 1 lac each)
(vi)	Loss of love and affection to parents	Rs.1,00,000/- (Rs. 50,000 each)
(vii)	Funeral Expenses	Rs.25000/-
	Total Compensation awarded	10,73,800/-
	Enhanced amount of compensation	Rs.10,73,800-Rs.7,73,800/-=Rs.3,00,000/-

The enhanced amount of compensation of Rs.3,00,000/- shall be payable to the appellants, 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.**

July 03, 2017
G Arora

(**RITU BAHRI**)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No