

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.3021 of 2013
Date of Decision: 09.10.2017

Sunil Kumar and Others

.....Appellants

Vs.

Babu Lal and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.J.P.Sharma, Advocate,
for the appellants.

Mr.Vinod Gupta, Advocate, for respondent No.3.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 25.07.2012, passed by the learned Motor Accident Claims Tribunal, Narnaul (for short, 'the Tribunal') vide which compensation to the tune of Rs.7,80,000/- was awarded to the claimants on account of death of Bindu Devi.

FACTS NOT IN DISPUTE

On 25.07.2011, the deceased Bindu Devi with her husband Sunil Kumar and son Gaurav were coming to Mohindergarh from village Kherki, for getting medicines for her son Gaurav. When they came out from village Bairawas, a Tractor bearing No.HR-35-F-4126 driven in a rash and negligent manner by the respondent No.1 came there. When they by signal asked the tractor to stop, the respondent No.1 who was driving the tractor in a rash and negligent manner struck it against Bindu Devi. On account of the aforesaid accident, serious injuries were sustained by Bindu Devi and she died on the spot. The FIR of the accident Ex.PW3/A was lodged in the Police Station,

Mohindergarh on 25.07.2011.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 30 years old as per her post Mortem Report Ex.PW2/A. 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.	Income (As per minimum wages)	Rs.5,000/- X 12= Rs.60,000/- per annum.
2.	Deduction 1/4 th	Rs.60,000/- --- Rs.15,000/-= Rs45,000/- per annum.
3.	After applying multiplier total loss of dependency	Rs.45,000/- X 17= Rs.7,65,000/-
4.	Loss of consortium	Rs.10,000/-
5.	Funeral Expenses	Rs.5,000/-
	Total Assessed Compensation	Rs.7,80,000/-

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 " **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'**; . 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.

RE-ASSESSED COMPENSATION

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

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.	Income (As per minimum wages)	Rs.5,000/- X 12= Rs.60,000/- per annum.
2.	Deduction 1/4 th	Rs.60,000/- --- Rs.15,000/-= Rs45,000/- per annum.
3.	After applying multiplier total loss of dependency	Rs.45,000/- X 17= Rs.7,65,000/-
4.	Loss of consortium	Rs.10,000/-
5.	Funeral Expenses	Rs.5,000/-
6.	Love and affection Rs.1,00,000/- each of the minor children	Rs.3,00,000/-
	Total Re-assessed Compensation	Rs.10,80,000/-
	Enhanced compensation	Rs.10,80,000/- --- Rs.7,80,000/- Rs.3,00,000/-

Resultantly, the enhanced amount of compensation of Rs.3,00,000/- 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.

(RITU BAHRI)
JUDGE

09.10.2017
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No