

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

**FAO No.1480 of 2014 (O&M)
Date of decision: 28.08.2017**

Smt. Janki Devi

....Appellant

Versus

Suresh Kumar and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Mukesh Yadav, Advocate,
for the appellant.

Ms. Madhu Sharma, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as 'the Tribunal') vide award dated 05.09.2013, on account of death of Sudheesh @ Sudhir in a motor vehicular accident which took place on 09.03.2012. Appellant is mother of deceased Sudheesh @ Sudhir.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 09.03.2012, Sudheesh @ Sudhir (since deceased), Dilbhag Singh, Ajay, Manjeet and Sandeep were going from Kurhawata to Rewari in Mahindra Xylo bearing registration No.HR-66-A-0635. The said vehicle was being driven by Manjeet. At about 8.00 P.M., when they reached near village Siha towards Rewari side, Manjit

vehicles coming from the opposite side. However, he could not notice the Container bearing registration No.HR-47-B-7143, which was parked unattended, without indicator, warning light or reflectors, on the wrong side of the road. Due to this reason, Mahindra Xylo struck against the said container, as a result of which, it went off the road and stuck against a kikar tree. All the occupants of the vehicle sustained injuries. However, Sandeep died on the spot and later on, Sudheesh @ Sudhir also succumbed to the injuries. With regard to the accident, an FIR Ex.P1 dated 10.03.2012 was recorded at Police Station, Khol. 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 took place on account of rash and negligent parking of offending vehicle (container) by respondent No.1 and thus, returned the finding on issue No.1 in favour of the claimant(s). This finding was rightly given on the basis of deposition of Manjit Singh (PW-2), who was an injured eye witness of the accident. Moreover, FIR, Ex.P1, in this regard, was also got registered on the basis of statement made by another eyewitness Dilbhag Singh.

In the absence of any document, income of deceased-Sudheesh @ Sudhir was assessed as Rs.4888/- per month i.e. Rs.58,656/- per annum, as that of a daily labourer, out of which, 50% was deducted towards his personal expenses because he was unmarried at the time of death/accident. The dependency of claimant, thus, came to Rs.29,328/- per annum. Sudheesh alias Sudhir was 28 years of age at the time of accident/death and the multiplier of 17 was applied. Thus, the claimant was found entitled to

compensation of Rs.4,98,576/- (Rs.29,328 x 17). In addition to it, Rs.5000/- were awarded as funeral expenses. Hence, the claimant was found entitled to total compensation of Rs.5,03,576/- along with interest @ 6% 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 passed in 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, 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 and Rajesh and others vs. Rajbir Singh and others, 2013 (9) SCC 54, as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.4888/- per month
(ii)	50% of (i) above is added towards future prospects.	4888 + 2444 = Rs.7332/- per month
(iii)	50% of (ii) above is deducted as personal expenses of the deceased	7332 – 3666 = Rs.3666/-
(iv)	Compensation after multiplier of 17 is applied	Rs.3666/- x 12 x 17 = Rs.7,47,864/-
(v)	Loss of love and affection for the mother (appellant)	Rs.50,000/-

(vi)	Funeral expenses	Rs.25,000/-
(vii)	TOTAL COMPENSATION AWARDED	Rs.8,22,864/-
(viii)	Enhanced amount of compensation	Rs.8,22,864 – 5,03,576 = Rs.3,19,288/-

The enhanced amount of compensation of **Rs.3,19,288/-** 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

28.08.2017
ajp

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