

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

**FAO No.1598 of 2014 (O&M)
Date of decision: 21.09.2017**

Jaspal Kaur and others

....Appellants

Versus

Jagmeet Singh and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Manjit Singh Uppal, Advocate,
for the appellants.

Mr. Rajbir Singh, Advocate,
for Mr. Sanjeev Goyal, Advocate,
for respondent No.2-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Mansa (hereinafter referred to as 'the Tribunal') vide award dated 31.10.2013, on account of death of Labh Singh in a motor vehicular accident which took place on 10.09.2012. Appellant No. 1 is widow and appellant Nos.2 to 6 are children of deceased Labh Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 10.09.2012, at about 11.30 A.M., Labh Singh (since deceased) was standing on left side of road near the fields of Bhola Singh and was busy in conversation with a Survey Party in respect of agricultural labourer in the area. Bhola Singh, Sukhwant Singh,

Jagir Singh along with 10-15 labourers were also present there. In the

meantime, a car bearing registration No. PB-31-H-0002, being driven by respondent No.1-Jagmeet Singh in a rash and negligent manner, came from the side of Jhunir at a very high speed and hit Labh Singh. Thereafter, it struck against the roadside tree and fell into the ditches. As a result of the accident, Labh Singh and one lady namely Sukhbir Kaur died at the spot. With regard to the accident, DDR No.19 dated 10.09.2012 was registered at Police Station, Kot Dharmu. Consequently, the claimants-appellants 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 (car) by respondent No.1 and thus, returned the finding on issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of Bhola Singh (PW-3), who was an eye witness of the accident.

In the absence of any substantial evidence, income of the deceased was assessed as Rs.4000/- per month and 30% addition was granted on account of future prospects, which came to Rs.5200/- per month. Out of this, 1/4th amount was deducted towards his personal expenses. The dependency of claimants, thus, came to Rs.3900/- per month i.e. Rs.46,800/- per annum. Labh Singh was 49 years of age at the time of accident/death and the multiplier of 13 was applied. Thus, the claimants were found entitled to compensation of Rs.6,08,400/- (Rs.46,800/- x 13). In addition to it, Rs.1,00,000/- were awarded towards loss of consortium, Rs.25,000/- as funeral expenses and Rs.5000/- towards loss of estate. Ultimately, the claim petition was allowed and claimants were found entitled to Rs.7,38,400/-

along with interest at the rate of Rs.7.50% per annum. Feeling dissatisfied with the impugned award, the claimants-appellants have 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. A perusal of the impugned award shows that income of the deceased has been granted on the lower side. As per minimum wages prevalent at the time of accident in State of Punjab, income of the deceased should have been assessed as Rs.4800/- per month. Hence, 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.4800/- per month
(ii)	30% of (i) above is added towards future prospects	4800 + 1440 = Rs.6240/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	6240 – 1560 = Rs.4680/-
(iv)	Compensation after multiplier of 13 is applied	Rs.4680/- x 12 x 13 = Rs.7,30,080/-
(v)	Loss of consortium for the widow (appellant No.1)	Rs.1,00,000/-

(vi)	Loss of love and affection for the children (appellant Nos.2 o 6)	Rs.5,00,000/- (Rs.1,00,000/- each)
(vii)	Funeral expenses	Rs.25,000/-
(viii)	TOTAL COMPENSATION AWARDED	Rs.13,55,080/-
(ix)	Enhanced amount of compensation	Rs.13,55,080 – 7,38,400 = Rs.6,16,680/-

The enhanced amount of compensation of **Rs.6,16,680/-** 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

21.09.2017
ajp

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