

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.3310 of 2013
Date of Decision: 13.09.2017

Inderjit and others

.....Appellants

Vs.

Rajinder Kumar and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Saurabh Bhardwaj, Advocate, for the appellants.

Mr.Inderjit Singh, Advocate, for respondents No.1 to 3.

Mr.Tejinder Joshi, Advocate, for respondent No.4.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 23.02.2013, passed by the learned Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhari (for short, 'the Tribunal') vide which compensation to the tune of Rs.6,68,000/- was awarded to the claimants on account of death of his wife Bishambri Devi.

FACTS NOT IN DISPUTE

On 24.04.2011, the claimant's wife Bishambri Devi along with her minor daughter Aarju was returning from her parental house situated in village Palaka to the claimant's house situated in village Dhamouli on a motorcycle No.HR-02X-5723 driven by her brother Randhir Singh. The motorcycle was being driven on correct left side of the road at a moderate speed and when it reached near petrol pump in the area of Radaur town, a truck bearing No.HR-58C-0280 was spotted coming from the opposite side

and it was being driven in a rash and negligent manner. So, Randhir Singh took his motorcycle to the extreme left side of the road on the Kaccha portion but the truck came to the wrong side of the road and hit against the motorcycle. Bishambri Devi and her daughter fell on the metalled road and were run over under the wheels of the truck. Both of them had succumbed to the injuries. A formal FIR No.126 dated 24.04.2011 for the offence under Section 279/304-A IPC was registered at Police Station, Farakpur on the statement of Randhir Singh the brother of deceased Bishambri Devi.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was more than 31 years old on the basis of her voter identity card Ex.R-1. 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.4500/- X 12= Rs.54000/- per annum
2.	Deduction (1/4th) as personal expenses	Rs.54000/- --- Rs.13,500/-= Rs.40,500/-
3.	Total loss of dependency after applying multiplier	Rrs.40,500/- X 16= Rs.6,48,000/-
4.	Loss of consortium	Rs.10,000/-
5.	Loss of estate	Rs.5,000/-
6.	Funeral expenses	Rs.5,000/-
	Total Assessed compensation	Rs.6,68,000/-

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 "**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;

'Munna Lal Jain and another vs. Vipin Kumar Sharma and others, 2015(3) Recent Apex Judgments 459'. Learned counsel submits that nothing has been awarded towards love and affection to parents, who were fully dependent upon the deceased. He further referred to the judgment of Division Bench of this Court in the case of Paramjit Singh and another Vs. Dilbag Singh alias Bagga and others 2014 (4) AICJ 65, wherein, if the deceased was a house wife, the concept of deduction cannot be applied. The relevant paragraph of the said judgment is produced as under:

“We may hasten to add that in all those cases, referred to above, in which 1/3 rd cut has been applied, no reasoning has been given by the learned Single Judge rather in the cases, referred to above, which 1/3 rd cut has not been applied, the learned Single Judge had observed that Rs.3,000/- per month is assessed as monthly value of her services and not her monthly income and, therefore, the concept of deduction cannot be applied. In view of the aforesaid discussion, we are of the considered view that while calculating the notional income of the housewife, the entire income should be taken as dependency of the legal heirs without applying any cut much-less 1/3 rd, as has been done in certain cases.”

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.4500/- X 12= Rs.54000/- per annum
2.	Total loss of dependency after applying multiplier	Rrs.54,000/- X 16= Rs.8,64,000/-
3.	Loss of consortium	Rs.1,00,000/-
4.	Love and affection Rs.50,000/- each of the minor child.	Rs.2,00,000/-
5.	Loss of estate	Rs.5,000/-
6.	Funeral expenses	Rs.25,000/-
	Total Assessed compensation	Rs.11,94,000/-
	Enhanced Compensation	Rs.11,94,000/- ---Rs.6,68,000/-= Rs.5,26,000/-

Resultantly, the enhanced amount of compensation of Rs.5,26,000/- 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

13.09.2017
anil

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