

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

**FAO No.1469 of 2015
Date of decision: 06.10.2017**

Smt. Shakuntla and others

....Appellants

Versus

Sat Narain and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Ms. Bhavna Grewal, Advocate,
for Mr. Sandeep Kumar Yadav, Advocate,
for the appellants.

None for the respondents.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as 'the Tribunal') vide award dated 20.12.2014, on account of death of Laxmi Narain in a motor vehicular accident which took place on 05.03.2014. Appellant No.1 is widow, appellant Nos.2 to 6 are children and appellant No.7 is father of deceased-Laxmi Narain.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 05.03.2014, Laxmi Narain was returning from village Barda to village Dongra Ahir on a motorcycle bearing registration No.HR-34-C-4671. At about 3/3.15 P.M., when he reached in the area of village Khatod, at a little distance of R.P.S. School, a Canter bearing registration No. HR-61-A-9511, being driven by Sat Narain-

respondent No.1 in a rash and negligent manner, came from behind at a very

high speed and hit the motorcycle of Laxmi Narain, as a result of which, Laxmi Narain sustained injuries and died at the spot. The accident was witnessed by Jagrup son of Ram Singh, resident of Sobhapur and Mukesh son of Rattan Singh, resident of village Dongra Ahir. With regard to the accident, FIR No.88 dated 05.03.2014, under Sections 279/304-A IPC was registered at Police Station, Mahendergarh, against respondent No.1. Consequently, the claimants i.e. appellants filed a claim petition before the Tribunal.

Upon notice, respondent Nos. 1 and 2 filed their joint written statement, wherein they denied the factum of accident with the canter in question. It was stated that the aforesaid canter was insured with MAGMA HDI General Insurance Company Ltd.-respondent No.3, therefore, they were not liable to pay the compensation.

Respondent No.3-Insurance Company filed a separate written statement, stating therein that no such accident had taken place. A false case had been registered in collusion of the claimants and respondent Nos.1 and 2 with the police. It was further stated that there was violation of terms and conditions of the insurance policy.

From the pleadings of the parties, following issues were framed:-

1. Whether the motor vehicle accident which took place on 05.03.2014 at about 3/3.15 P.M. in the area of village Khatod near R.P.S. School on account of rash and negligent driving of vehicle bearing registration No.HR-61-A-9511 by respondent No.1, resulting into death of Laxmi Narain? OPP
2. If issue No.1 is proved, then what amount of compensation the petitioners are entitled to and from whom? OPP
3. Whether the vehicle in question was being driven by

respondent No.1 in violation of terms and conditions of insurance policy? OPR-3

4. Relief.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had taken place due to rash and negligent driving of the offending canter by its driver-respondent No1. Accordingly, issue No.1 was decided in favour of the claimants. This finding was rightly given on the basis of deposition of Jagrup Singh (PW-1) and Mukesh Rattan (PW-3), who were eye witnesses of the accident.

As per Last Pay Certificate, Ex.PW4/A, Laxmi Narain was getting salary of Rs.56,386/- per month. On the basis of this certificate, Tribunal had taken the income of deceased as Rs.50,000/- per month, out of which, 1/3rd amount was deducted towards personal expenses of deceased. The dependency of claimants, thus, came to Rs.33,334/- per month i.e. Rs.4,00,008/- per annum. As per postmortem report, deceased was 54½ years of age at the time of accident/death. The Tribunal had taken the age of deceased as 55 years. Accordingly, multiplier of 9 was applied. Thus, appellants-claimants were found entitled to compensation of Rs.36,00,072/- (4,00,008 x 9). Apart from this, Rs.20,000/- were awarded towards last rites and Rs.30,000/- towards love and affection. Ultimately, claim petition was allowed and the claimants were held entitled to a total compensation of Rs.36,50,072/- along with interest @ 9% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-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. In view of the judgment passed by Hon'ble the Supreme Court in 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, the compensation is reassessed as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.50,000/- per month.
(ii)	15% of (i) above to be added as future prospects	50,000 + 7500 = Rs.57,500/-
(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	57,500 – 19,166 = Rs.38,334/-
(iv)	Compensation after multiplier of 11 is applied	Rs.38,334 x 12 x 11 = Rs.50,60,088/-
(v)	Loss of consortium to the widow	Rs.1,00,000/-
(v)	Loss of love and affection for the children	Rs.5,00,000/-
(vi)	Funeral expenses	Rs.25,000/-
(vii)	TOTAL COMPENSATION AWARDED	Rs.56,85,088/-
(viii)	Enhanced amount of compensation	Rs.56,85,088 – 36,50,072 = Rs.20,35,016/-

The enhanced amount of compensation of **Rs.20,35,016/-** 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

06.10.2017
ajp

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