

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

**FAO No.1999 of 2015 (O&M)
Date of decision: 17.11.2017**

Barsati Lal Yadav and another

....Appellants

Versus

Mukesh Kumar @ Gholi and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. D.S. Randhawa, Advocate,
for the appellants.

Mr. Salil Sabhlok, Advocate,
for Mr. Chandan Deep Singh, Advocate,
for respondent No.2.

Mr. Banni Thomas, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Ludhiana (hereinafter referred to as 'the Tribunal') vide award dated 10.10.2014, on account of death of Anil Kumar in a motor vehicular accident which took place on 10.11.2010. Appellants are parents of deceased Anil Kumar.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 10.11.2010, Anil Kumar (since deceased) along with Rakesh Kumar was going on a Hero Honda motorcycle bearing registration No.PB-10-C-3561 in order to purchase

about 10.00 P.M., when they reached opposite Suneha Jewellers, Block C, Bhai Randhir Singh Nagar, Ludhiana, a Verna car bearing registration No. PB-10-BY-0115 being driven by Mukesh Kumar alias Gholi in a rash and negligent manner, came from the opposite side and struck against the motorcycle, as a result of which, Anil Kumar and Rakesh Kumar fell down and received multiple injuries. They were taken to Deepak Hospital, Ludhiana, where Anil Kumar succumbed to the injuries, whereas Rakesh Kumar was discharged after providing first aid to him. With regard to the accident, FIR No. 261 dated 11.11.2010, under Sections 279/337/304-A/427 IPC was registered at Police Station, Sarabha Nagar, Ludhiana on the statement of Rakesh Kumar. Consequently, the claimant-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 car by respondent No.1, as a result of which Anil Kumar has died 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 Rakesh Kumar (PW-1), who was an eye witness of the accident and on whose statement, FIR Ex.C1 was registered. Further, the claimants have proved on record copy of challan as Ex.CW3/A.

The deceased was not earning anything, rather he was a student. The Tribunal has observed that though, there was nothing on the file to assess the income, which the deceased would have earned after completion of his study, but in the present economic scenario of our country even a daily wage can earn Rs.150/200 per day. Therefore, income of the

deceased was assessed as Rs.4000/- per month, out of which, 50% amount was deducted towards his personal expenses, which came to be Rs.2000/- per month i.e. Rs.24,000/- per annum. The deceased was bachelor at the time of death/accident. Accordingly, multiplier of 13 was applied keeping in view the age of his father-appellant No.1, who was 47 years of age. After applying the multiplier of 13, dependency of claimants came to Rs.3,12,000/- (24000/- x 13). In addition to it, Rs.25,000/- were awarded on account of funeral expenses. Hence, the claimants were found entitled to total compensation of Rs.3,37,000/- along with interest @ 6% 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 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 by Hon'ble the Supreme Court in **Sarla Verma and others vs. Delhi Transport Corporation and another**, 2009 (3) RCR (Civil) Page 77 and **National Insurance Company Limited Vs. Pranay Sethi and others**, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017) as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.6000/- per month
(ii)	40% of (i) above to be added as future prospects	6000 + 2400 = Rs.8400/-

(iii)	50% of (ii) above is deducted as personal expenses of the deceased	8400 – 4200 = Rs.4200/-
(iv)	Compensation after multiplier of 18 is applied	Rs.4200/- x 12 x 18 = Rs.9,07,200/-
(v)	Funeral expenses	Rs.15,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.9,22,200/-
(vii)	Enhanced amount of compensation	Rs.9,22,200 – 3,37,000 = Rs.5,85,200/-

The enhanced amount of compensation of **Rs.5,85,200/-** 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

17.11.2017
ajp

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