

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

1. FAO No. 4479 of 2013

Jakir Hussain @ Jakir ...Appellant
Versus

Rahis and others ...Respondents

2. FAO No. 5007 of 2013

Jakir Hussain @ Jakir and anr. ...Appellant

Versus

Rahis and others ...Respondents

Date of decision:- 03.10.2017

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Ashish Gupta, Advocate
for the appellant in both cases.

Mr. M.B. Jain, Advocate
for respondent -Insurance Company

RITU BAHRI J. (Oral)

1. This order shall dispose of the above two appeals, having arisen out of the impugned Award dated 30.05.2013 passed by the learned Motor Accident Claims Tribunal, Nuh (for short 'the Tribunal').

Facts not in dispute

2. On 28.08.2010, deceased-Tahir was going to Punhana on motorcycle bearing registration No. HR-28-C-1828. When he reached near Hathangaon Choraha, a motorcycle bearing registration No. HR-99-DV-(T) 9876 being driven by respondent No. 2, came from Nehda side and hit against the motorcycle of the deceased, as a result thereof, motorcycle of the deceased damaged badly and he also sustained grievous injuries and died on the spot.

Arguments Advanced

3. Learned counsel for the appellant (Jakir Hussain @ Jakir in FAO No. 4479-2013) contends that the learned Tribunal awarded a very meager amount on account of damage of his vehicle in a motor vehicular accident.
4. Learned counsel for the appellant (Jakir Hussain @ Jakir in FAO No. 5007-2013) contends the compensation awarded by the learned 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*" and "*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*" and "*Kalpanaraj and others v. Tamil Nadu State Transport Corporation, 2015(2) SCC (Civil) 193*."
5. On the other hand, the learned counsel for the respondent-Insurance Company has vehemently opposed the present appeal.
6. I have heard learned counsel for the parties and perused the record.

COMPENSATION ASSESSED BY THE MACT

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.3500/- monthly
(ii)	Loss of dependency	Rs.3500-1/3 rd =Rs.2333/-
(iii)	Compensation after multiplier of 18 is applied	2333X12X18=Rs.5,03,928/-
(iv)	Loss of consortium	Rs.10000/-
(v)	Transportation of body	Rs.5000/-
(vi)	Compensation on account of funeral expenses	Rs.10,000/-
	Total Compensation awarded	Rs.5,28,928/- (rounded off to Rs.5,29,000/-

7. The Tribunal held that it was the case of contributory

negligence and awarded half of the compensation amount i.e Rs.2,69,000/- to petitioner No. 1 i.e Sahista widow of Tahir and petitioner No. 3 Rihana (mother of the deceased).

8. With regard to damage of vehicle, the learned Tribunal awarded Rs.5000/- to the appellant-Jakir Hussain @ Jakir in the 2nd claim petition filed by Jakir Hussain @ Jakir.

9. Feeling dissatisfied with the impugned award, appellants have preferred the present appeal .

REASSESSED COMPENSATION

10. It is not in dispute that the offending vehicle was fully insured with the Insurance company.

11. The appeal preferred by the appellants is liable to be modified in view of the above mentioned judgments and the compensation is re-assessed as under:-

Re-assessed Enhanced compensation

Jakir Hussain @ Jakir

The compensation awarded to the appellant on account of damage of vehicle is enhanced from Rs.5000/- to Rs.10,000/-

Deceased-Tahir

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.4500/- per month
(ii)	50% of (i) above to be added as future prospects=	Rs.4500+Rs.2250=Rs.6750/- per month
(iii)	1/3 rd of (ii) deducted as personal expenses of the deceased=	Rs.6750-Rs.2250=Rs 4500/- per month
(iv)	Compensation after multiplier of 18 is applied	Rs.4500 X 12 X 18= Rs.09,72,000/-
(v)	Loss of consortium to wife	Rs.1,00,000/-
(vi)	Loss of love and affection to sister i.e Shabnam-respondent No. 4 in the present appeal.	Rs.1,00,000/-

Sr. No.	Heads	Calculations
(vii)	Loss of love and affection to parents	Rs.1,00,000/- (Rs.50,000/ each)
(viii)	Funeral charges	Rs.25,000/-
(ix)	Total Compensation awarded	Rs.12,97,000/-
	Enhanced amount of compensation	12,97,000 -05,29,000/-==Rs.07,68,000/-

12. Since, the Tribunal held that it was a case of contributory negligence, the claimants are held entitled to 50% of the enhanced amount awarded by this Court i.e Rs.03,84,000/- i.e over and above the amount already awarded by the Tribunal.

13. Resultantly, the enhanced amount of compensation of Rs.5,000/- (in FAO No. 4479-2013) and Rs.03,84,000/- (in FAO No. 5007-2013) 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.

14. With the aforesaid modification in the impugned award, the appeals stand partly allowed to the above extent.

October 03, 2017

G Arora

(**RITU BAHRI**)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No