

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

FAO No.4647 of 2013 (O&M)

Date of decision: 13.10.2017

Kanta Devi and others

....Appellants

Versus

Sanjay Kumar and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Anil Kumar Spehia, Advocate,
for the appellants.

Mr. Vinod Gupta, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

CM No.21853-CII of 2017

The application is for fixation of actual date of hearing in the appeal.

In view of the averments mentioned in the application, same is allowed and the main appeal i.e. FAO No.4647 of 2013 is taken up today itself for its disposal.

FAO No.4647 of 2013

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Jalandhar (hereinafter referred to as 'the Tribunal') vide award dated 09.01.2013, on account of death of Surinder Pal Singh in a motor vehicular accident which took place on 20.06.2011. Appellant No. 1 is widow and appellant Nos.2 to 4 are children of deceased Surinder Pal Singh.

FACTS NOT IN DISPUTE

P.M., Surinder Pal Singh (since deceased) was going from his shop at village Sham Chaurasi to his residence at village Haripur on a motorcycle bearing registration No. PB-08-BM-1571. When he reached near Suraj Fast Food, Adampur, a Truck bearing registration No. HP-69-5279 being driven by Sanjay Kumar-respondent No.1 in a rash and negligent manner, came from backside and struck against the motorcycle of Surinder Pal Singh, as a result of which, he fell down from the motorcycle and front left wheel of the offending truck ran over him. Surinder Pal Singh received grievous injuries on head, ribs, right arm and other parts of the body. The accident was witnessed by Harbhajan Singh, who was coming behind the deceased. He firstly took Surinder Pal Singh to the Civil Hospital and thereafter, to Miglani Hospital, Adampur, from where he was referred to Johal Hospital, Rama Mandi, Jalandhar. However, the injured succumbed to the injuries in the said hospital. With regard to the accident, an FIR No. 143 dated 21.06.2011 was registered against respondent No.1-Sanjay Kumar. 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 (Truck) 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 Harbhajan Singh (PW-2), who was an eye witness of the accident and whose statement, FIR, Ex.P1 was registered.

Deceased-Surinder Pal Singh was an Ex-serviceman and was

getting pension. The income of the deceased was assessed as Rs6000/- per month i.e. Rs.72,000/- per annum, out of which, 1/4th amount was deducted towards his personal expenses. The dependency of claimants, thus, came to Rs.54,000/- per annum. As per postmortem report Ex.P2, Surinder Pal Singh was 48 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.7,02,000/- (Rs.54,000 x 13). 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. It is not in dispute that the deceased was an Ex-serviceman. Learned counsel for the appellants has produced some documents showing the pension, which was being drawn by the deceased at the time of his death. Learned counsel for respondent No.3 has not disputed the said documents. As per these documents, deceased was getting pension of Rs.7987/- per month, which can be rounded off to Rs.8000/- per month. Accordingly, the income of the deceased is being taken as Rs.8000/- 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.8000/- per month
(ii)	1/4 th of (i) above is deducted as personal expenses of the deceased	8000 – 2000 = Rs.6000/-
(iii)	Compensation after multiplier of 13 is applied	Rs.6000/- x 12 x 13 = Rs.9,36,000/-
(iv)	Loss of consortium for the widow (appellant No.1)	Rs.1,00,000/-
(v)	Loss of love and affection for the children (appellant Nos.2 to 4)	Rs.3,00,000/- (Rs.1,00,000/- each)
(vi)	Funeral expenses	Rs.25,000/-
(vii)	TOTAL COMPENSATION AWARDED	Rs.13,61,000/-
(viii)	Enhanced amount of compensation	Rs.13,61,000 – 7,02,000 = Rs.6,59,000/-

The enhanced amount of compensation of **Rs.6,59,000/-** 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

13.10.2017
ajp