

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.4053 of 2014 (O&M)

Date of Decision: 17.11.2017

Ravi Dass and others

.....Appellants

Vs.

Surinder Singh and Others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.S.K.Gupta, Advocate, for the appellants.

None for respondents No.1 and 2.

Mr.Satpal Dhamija, Advocate, for respondent No.3.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 19.11.2013, passed by the learned Motor Accident Claims Tribunal, Faridabad (for short, 'the Tribunal') vide which compensation to the tune of Rs.2,80,000/- was awarded to the claimants on account of death of Posam Jeet Dass due to the injuries sustained in a motor vehicular accident.

FACTS NOT IN DISPUTE

On 20.02.2013, at about 1:30 p.m. deceased along with his father returning from village Pali to their home and when they reached at Sharma Restaurant near Pali Dabua Road, Faridabad and they stopped there for drinking water and then the claimant No.1 went inside the restaurant whereas deceased remained outside and he was playing then he immediately came outside the restaurant and he found that on tractor driver i.e. respondent No.1 while driving his offending tractor along with its tanker at a

very high speed, in a rash, negligent and reckless manner, without blowing any horn came and struck with the deceased. After causing the accident, he fled away from the spot along with his offending vehicle towards Dabua. The deceased succumbed to the injuries at the spot. The post mortem examination on the dead body was conducted at B.K.Hospital, Faridabad. On the statement of claimant No.1, FIR No.109 dated 21.02.2013 for the offence under Sections 279, 304A IPC was registered in Police Station Saran Faridabad. Both the parties are not disputed with regard to the finding on issue No.1 in favour of claimants and the accident took place on account of rash and negligent driving of respondent No.1.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased-Pasam Jeet Dass was 13 years old and he was student of 8th standard and was helping his father in other works. The factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company. The compensation has been awarded by the learned Tribunal in view of the judgment of Hon'ble Supreme Court in the case of Lata Wadhwa Vs. State of Bihar 2001(4) RCR (Civil) 673. learned Tribunal had assessed the compensation as under:-

Sr.No.	Heads of compensation	Amount
1	Income	Rs.18,000/- per annum
2.	Deduction 1/3rd	Rs.18,000/- --- Rs.6,000/-= Rs.12,000/-
3.	After applying multiplier annual loss of dependency	Rs.12,000/- X 15= Rs.1,80,000/-
4.	Pain and suffering	Rs.55,000/-
5.	Future prospect	Rs.40,000/-
6.	Funeral Expenses	Rs.5,000/-
	Total	Rs.2,80,000/-

The learned Tribunal has further held that since the driving licence of respondent No.1 i.e. Ex.R-3 was found to be valid as he was driving the tractor, the insurance Company was held liable to make compensation.

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 the loss of consortium awarded by the Tribunal is on the lower side and further nothing has been awarded towards love and affection to parents, who were fully dependent upon the deceased. 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.

The compensation awarded is required to be reassessed and enhanced. A reference at this stage can be made of the Hon'ble Supreme Court case i.e. Krishan Gopal and another Vs. Lala and others 2013(4) RCR (Civil) 276, where, in case the deceased was 10 years old child, his notional income was fixed as Rs.30,000/- p.a. and multiplier of 15 was applied and Rs.50,000/- had been awarded under the conventional heads. Accordingly, Rs.5,00,000/- had been awarded to the claimants. In this case, no deduction was made towards personal expenses.

taken the notional income of child as Rs.50,000/- per annum. As the accident had taken place on 15.03.2012. Whereas, in the case of **Krishan Gopal case (Supra)** accident had taken place in the year 1992. The multiplier 18 was applied as per ratio laid down in the case of **Sarla Verma Vs. Delhi School Transport (2009) 6 SCC 121 and National Insurance Company Ltd. Vs. Pranay Sethi and others SLP(C) 25590 of 2014 decided on 31.10.2017**

Following the ratio of law laid down by the above mentioned judgments, the compensation has to be re-assessed as follows:-

Sr.No.	Heads of compensation	Amount
1	Income	Rs.50,000/- per annum
2.	After applying multiplier annual loss of dependency	Rs.50,000/- X 18= Rs.9,00,000/-
3.	Conventional heads	Rs.30,000/-
	Total	Rs.09,30,000/--
	Enhanced amount of compensation	Rs.09,30,000/- ---- Rs.2,80,000/- Rs.6,50,000/-

Resultantly, the enhanced amount of compensation of Rs.6,50,000/- 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

17.11.2017.
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No