

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

FAO No. 4188 of 2014

Date of decision:- 22.08.2017

Rajwinder Kaur and others

...Appellants

Versus

Shri Chand and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Navmohit Singh, Advocate
for the appellants

Mr. Rajnish Malhotra, Advocate
for respondent No. 4.

Mr. V. Ramswaroop, Advocate
for respondent No. 7

RITU BAHRI J.

1. The present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 19.02.2013 passed by the learned Motor Accident Claims Tribunal, Kurukshetra (for short, 'the Tribunal') to the tune of Rs.11,82,240/-.

FACTS NOT IN DISPUTE

2. On 10.10.2011, Narender Kumar (since deceased) along with Krishan Kumar was going from his village Khaira to Anand Hospital, Kurukshetra on his motorcycle bearing registration No. HR-07-Q-4516 and they were followed by Jagbir Singh and Raj Kumar. Narender Kumar was driving his motorcycle on correct side of the road and Krishan Kumar was travelling as pillion rider. When they reached in front of the Police Line near turn of Sector 5, a tractor-trailer make Swaraj 735 bearing registration No. HR-16-C-0546 was going ahead of the motorcycle of Narender Kumar. Respondent No. 1 was driving the offending vehicle at a very fast speed and without giving any indicator, he turned his tractor on the other side, resultantly, motorcycle of the Narender Kumar struck against the

offending vehicle. At the same time, a car make Figo bearing registration No. HR-05TC-0103 being driven by respondent No. 5 came from back side struck the motorcycle of Narender Kumar and Krishan Kumar fell down and received injuries. They were shifted to LNJP Hospital, Kurukshetra where Narender Kumar was brought declared dead and Krishan Kumar was medico legally examined. F.I.R No. 312 dated 11.10.2011 for commission of offences punishable under Sections 279/304-A/337 IPC against respondent Nos. 1 and 5.

3. The learned counsel for the claimant-appellant contends that 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*'.

4. On the other hand, the learned counsel for the respondents-Insurance Companies have vehemently opposed the present appeal.

5. I have heard learned counsel for the parties and perused the record.

COMPENSATION ASSESSED BY MACT

Sr. No.	Heads	Calculations
(i)	Salary	Rs.5400/- per month
(ii)	30% Future Prospects	Rs.5400+ Rs.1620=Rs.7020/-
(iii)	1/4 th of (i) deducted as personal expenses of the deceased=	Rs.7020-Rs.1755=Rs.5265 per month
(iv)	Annual Dependency	Rs.5265X12=Rs.63180/-
(v)	Compensation after multiplier of 18 is applied	Rs.63180X18= Rs.11,37,240/-
(vi)	Loss of Estate	Rs.10,000/-
(vii)	Loss of Consortium	Rs.20,000/-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(viii)	Funeral charges and Transportation	Rs.15,000/-
	Total Compensation awarded	Rs.11,82,240/-

The insurance companies of both the offending vehicle were held responsible for giving compensation to the claimants.

RE-ASSESSED COMPENSATION

6. It is not in dispute that the offending vehicle was fully insured from their respective Insurance company. Its genuineness is also not under challenge.

7. Following the ratio of law laid down by Hon'ble the Supreme Court in the above mentioned judgments, the compensation has to be re-assessed as follows:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.5400/- per month
(ii)	50% of (i) above to be added as future prospects=	Rs.5400+Rs.2700=Rs.8100/- per month
(iii)	1/4 th of (ii) deducted as personal expenses of the deceased=	Rs.8100-Rs.2025=Rs.6075 per month
(iv)	Compensation after multiplier of 18 is applied	Rs.6075 X 12 X 18= Rs.13,12,200/-
(v)	Loss of consortium	Rs.1,00,000/-
(vi)	Loss of love and affection to minor child	Rs.1,00,000/-
(vii)	Loss of love and affection to parents	Rs.1,00,000/- (Rs.50,000/- to each)
(viii)	Funeral charges	Rs.25,000/-
	Total Compensation awarded	Rs.16,37,200/-
	Enhanced amount of compensation	16,37,200/-11,82,240=Rs.4,54,960/-

8. Resultantly, the enhanced amount of compensation of **Rs.4,54,960/-** 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.

09. With the aforesaid modification in the impugned award, the appeal is allowed to the above extent.

August 22, 2017
G Arora

(*RITU BAHRI*)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>