

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

F.A.O No. 4994 of 2013 (O&M)

Date of decision:- 05.09.2017

Rajwanti and others

...Appellants

Versus

Ranjit and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Ms. Anjali Bansal, Advocate
for the appellants

Mr. Indu Bala, Advocate for
Mr. Aditya Jain, Advocate for respondent No. 1

Mr. Surjeet Bhadu, Advocate
for respondent No. 2

Mr. Suvir Dewan, Advocate
for respondent No. 3-Insurance Company

RITU BAHRI J. (Oral)

C.M. No. 21197-CII-2013

For the reasons mentioned in the application, delay of 543 days
in filing of the present appeal is condoned.

The application stands disposed of.

F.A.O No. 4994-2013

1. The present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award/order dated 22.10.2011 passed by the learned Motor Accident Claims Tribunal, Gurgaon (for short, 'the Tribunal') to the tune of Rs.5,87,000/-.

FACTS NOT IN DISPUTE

2. On 24.10.2010, Chunni Lal (since deceased) was going towards
Gurgaon on motorcycle bearing registration No. HR-26-AT-6374 being

driven by him at a slow speed. When he reached near Village Naharpur, meanwhile, a truck bearing registration No. HR-24E-1474 along with trolley being driven by its driver/respondent No. 1 rashly and negligently, was going ahead of the deceased. The iron rods were protruding out of the tractor trolley and there was no light or red or white cloth on the iron rods and the deceased could not see the protruding iron rods. Suddenly, respondent No. 1 applied brake, as a result of which the motorcycle of Chunni Lal struck with protruding iron rods and the iron rods pierced through his chest and he died at the spot. F.I.R No. 254 dated 24.10.2010 was registered under Sections 304-A/34 IPC in police Station Kherki Daula, District Gurgaon.

3. The learned counsel for the claimants-appellants 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 respondent has vehemently opposed the present appeal.

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

COMPENSATION ASSESSED BY MACT

6. The learned tribunal did not accept the version of the claimants that the deceased (who was 35 years old) was earning Rs.15000/- per month by taking contracts in various factories. Since the claimants have failed to produce any documentary evidence with regard to his income, the Tribunal took the income of the deceased at Rs.4200/- per month and cut of 1/4th was applied and thereafter, multiplier of 15 was applied. The total loss of dependency to the family comes to Rs.5,67,000/-. Further the claimants were awarded Rs.10000/- towards funeral expenses and Rs.10000 towards loss of consortium. The total compensation of Rs.5,87,000/- were awarded to the claimants.

RE-ASSESSED COMPENSATION

7. It is not in dispute that the offending vehicle was fully insured with the Insurance company.
8. Reference at this stage can be made to a judgment passed by Hon'ble the Supreme Court in a case of **New India Assurance Co. Ltd v. Gopali and others, 2012 (12) SCC 198** whereby Hon'ble the Supreme Court in an old case of 1992 had taken the monthly income of deceased at Rs.3000/- and cut of 1/10th was imposed, keeping in view the fact that a person having a minimum income of Rs.3000/- could not think of spending 1/3rd of his income on himself.
9. Keeping in view 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.5000/- per month
(ii)	50% of (i) above to be added as future prospects=	Rs.5000+Rs.2500=Rs.7500/- per month
(iii)	1/10 of (ii) deducted as personal expenses of the deceased=	Rs.7500-Rs.750=Rs.6750 per month

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(iv)	Compensation after multiplier of 15 is applied	Rs.6750 X 12 X 16= Rs.12,96,000/-
(v)	Loss of consortium	Rs.1,00,000/-
(vi)	Loss of love and affection to two children	Rs.2,00,000/- (Rs. 1,00,000/- to each child)
(vii)	Loss of love and affection to mother	Rs.50,000/-
(viii)	Funeral charges	Rs.25,000/-
	Total Compensation awarded	Rs.16,71,000/-
	Enhanced amount of compensation	Rs.16,71,000-Rs.5,87,000=Rs.10,84,000/-

10. Resultantly, the enhanced amount of compensation of Rs.10,84,000/- 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.

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

05.09.2017

G Arora

(RITU BAHRI)

JUDGE

Whether speaking/reasoned

Whether reportable

Yes

No