

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

**FAO No.2832 of 2015
Date of Decision: 09.10.2017**

Ranji Devi and others

.....Appellants

Vs.

Ajay Kumar and Ors.

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.J.K.Chauhan, Advocate, for the appellants.

Mr.Subhash Goyal, 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 19.11.2014, passed by the learned Motor Accident Claims Tribunal, Panchkula (for short, 'the Tribunal') vide which compensation to the tune of Rs.12,98,080/- was awarded to the claimants on account of death of Mohan Lal.

FACTS NOT IN DISPUTE

On 01.09.2013, the deceased Mohan Lal and Praduman Kumar sons of Sita Ram started journey on 01.09.2013 from their village Raipur Rani to village Dandralon on Raipur Rani-Naraingarh Road. Deceased Mohan Lal was mounting on his own motorcycle bearing registration No.HR-03-K-9225. Mohan Lal was driving his motorcycle ahead to the motorcycle of Parduman Kumar, on the correct left side of the road, at a moderate speed. He had hardly travelled at distance of about 1 KM from Raipur Rani to towards Naraingarh and he had crossed the country made liquor vend on Raipur Rani-Naraingarh road, meanwhile 1-20 car bearing registration

it was being driven by respondent No.1 in a rash and negligent manner. The offending car after crossing the vehicles, hit the motorcycle of Mohan Lal and as a result of which deceased Mohan Lal thrown away on the road. He suffered grievous injuries and was rushed to Civil Hospital, Raipur Rani, where he was declared brought dead. Matter was reported to the Police by his brother Parduman Kumar and FIR No.116 dated 01.09.2013 under Section 279, 304-A of IPC was registered against respondent No.1 in Police Station, Raipur Rai.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 27 years old as per his driving licence Ex.P7. The factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company.

Sr.No.	Heads of compensation	Amount
1.	Income(as per daily wager Rs.6,000 p.m.)	Rs.72,000/- per annum.
2.	Future prospect 30%	Rs.72,000/- + Rs.21,600/= Rs.93,600/-
3.	Deduction 1/5 th	Rs.93,600/- --- 18,720/- =74,880/-
4.	Total loss of dependency after applying the multiplier	Rs.74,880/- X 16= Rs.11,98,080/-
5.	Loss of love and affection, cremation and performance of last rites	Rs.1,00,000/-
6.	Loss of consortium	Rs.1,00,000/-
	Total assessed compensation	Rs.12,98,080/- awarded by the learned Tribunal. Whereas it should have been awarded Rs.13,98,080/- as per calculation.

Learned counsel for the claimant-appellant contends that the compensation awarded by the Tribunal is on the lower side and deserves to

the enhanced, in view of the judgment " **Rajesh and others vs. Rajbir Singh and others, 2013 (9) SCC 54;** . 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.

It is not in dispute that the offending vehicle was fully insured with the Insurance company. Since the deceased Mohan Lal was working as carpenter and he was skilled worker as his income is taken as Rs.7500/- per month. 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:-

Sr.No.	Heads of compensation	Amount
1.	Income (Rs.7,500 p.m. as a skilled worker)	Rs.90,000/- per annum.
2.	Future prospect 50%	Rs.90,000/- + Rs.45,000/= Rs.1,35,000/-
3.	Deduction 1/5 th	Rs.1,35,000/- --- Rs.27,000/-=Rs.1,08,000/-
4.	Total loss of dependency after applying the multiplier	Rs.1,08,000/- X 16= Rs.17,28,000/-
5.	Loss of love and affection Rs.1,00,000/- each of two children	Rs.2,00,000/-
6.	Loss of consortium	Rs.1,00,000/-
7.	Funeral Expenses and performance of last rites	Rs.25,000/-
	Total reassessed compensation	Rs.20,53,000/-
	Enhanced compensation	Rs.20,53,000/- --- Rs.12,98,080/-= Rs.07,54,920/-

Resultantly, the enhanced amount of compensation of

Rs.07,54,920/- 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

09.10.2017
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No