

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

F.A.O No. 5187 of 2013

Date of decision:- 11.07.2017

Amandeep Kaur

...Appellant

Versus

Gurjit Singh and others

...Respondents

F.A.O No. 5256 of 2014 (O&M)

Paramjit Kaur

...Appellant

Versus

Gurjit Singh and others

...Respondents

F.A.O No.233 of 2014

National Insurance Co. Ltd.

...Appellant

Versus

Amandeep Kaur and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:

Mr.Akshay Jain, Advocate, for
the appellant- Amandeep Kaur
(F.A.O No. 5187 of 2013)

Mr. Rajinder Singla, Advocate, for
the appellant-Paramjit Kaur (FAO No.5256 of 2014)

Ms.Amandeep Kaur, Advocate, for
Mr.Ashwani Arora, Advocate, for respondent No.2.
(Owner of offending Truck).

Mr.V.Ramswaroop, Advocate, for
respondent-Insurance Company.

RITU BAHRI, J. (Oral)

CM No.14812-CII of 2014 in F.A.O No. 5256 of 2014

For the reasons stated in the application, delay of 213 days in
filing the appeal is condoned.

Application stands disposed of.

Main Cases

Present appeals have been preferred by the claimants-appellants i.e. Amandeep Kaur- wife of the deceased and Paramjit Kaur-mother of deceased (for short 'the appellants') and National Insurance Company Limited against award dated 12.07.2013, passed by the learned Motor Accident Claims Tribunal, Mansa (for short, 'the Tribunal'), whereby, learned Tribunal has claimants have been granted compensation to the tune of Rs.29,43,155/- and further the liability was fixed upon the Insurance Company to pay the amount of compensation.

FACTS NOT IN DISPUTE

On 10.04.2012, claimant-Amandeep Kaur alongwith her husband Harpal Singh was going on motorcycle Hero Honda Splendor of black colour being temporary number HR-99CB-4825 from Mansa to Maur to get the claimant board in a bus to go to Govt. High School Phulo Khari, District Bathinda from Maur Mandi as the claimant was also Govt. Teacher. When they reached bus stand of village Ghuman Kalan, PS Maur, father of the claimant and Harpal Singh on their separate motorcycle. When claimant and Harpal Singh reached 15 Karams behind Baba Ramdass, Girl Institute, Ghuman Kalana, PS Mour, District Bathinda, at about 6:00 am, an Alto car bearing registration No.HR-26V-5849 came from the front side being driven by respondent No.1 in a high speed, rashly and negligently and while coming on the wrong side struck against the motorcycle of Harpal Singh. Resultantly, Harpal Singh and claimant/appellant fell down. Claimant and Harpal Singh were taken care of by Gurmail Singh and Ajaib Singh who followed them but Harpal Singh died on the spot and claimant Amandeep Kaur received injuries on her right thigh, right arm, right foot back and

other parts of the body. Motorcycle also damaged badly. Claimant/appellant was admitted in Pankaj Hospital Mansa whereas Harpal Singh was taken to Civil Hospital, Mansa. The accident took place due to the rash and negligent driving of respondent No.1 who was driving the offending vehicle at that time. An FIR No.29 dated 10.04.2012 has been lodged in Police Station Maur against respondent No.1.

Tribunal held that the deceased was 26 years old as the deceased Harpal Singh was a teacher in Primary School at Village, Khokhar Kalan, District Mansa and he was drawing salary of Rs.15,500/- and as per his salary sleep his remaining period of service was 32 years. The factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company.

COMPENSATION ASSESSED BY MACT

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.15500/-
(ii)	Less amount on account of dependency	Rs.1,86,000 ---- Rs.13285=Rs.1,72,715/-
(iii)	After applying multiplier	Rs.1,72,175/- X 17= Rs. 29,36, 155/-
(iv)	Loss of consortium	Rs.5,000/-
(iv)	Funeral expenses	Rs.2,000/-
	Total compensation	Rs.29,43,155/-

Learned counsel for the claimants-appellants contends that the compensation awarded by the Tribunal is on the lower side and deserves to the enhanced, in view of the judgment "Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77';

'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. 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.

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

RE-ASSESSED COMPENSATION

It is not in dispute that the offending vehicle was fully insured with the Insurance company.

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.15,500/- per month
(ii)	Future prospects (50%)	Rs.15,500/- + Rs.7750/-
(iii)	Less 1/3 on account of dependency	Rs.23,250/ - 7750=Rs.15,500/-
(iii)	Compensation after multiplier of 17 is applied	Rs.15,500 X 17 X 12= Rs.31,62,000/-
(iv)	consortium	Rs.1,00,000/- +5,000= Rs. 1,05,000/-
(v)	Loss of love and affection (Mother)	Rs.50,000/-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(ix)	Funeral Expenses	Rs.25,000/- + Rs.5,000/- =Rs.30,000/-
(x)	Total	Rs.33,47,000/-
(xi)	Enhanced amount	Rs.33,47,000/- -- Rs.29,43,155/-= Rs.4,03,845/-

Resultantly, the enhanced amount of compensation of **Rs.4,03,845/-** 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 be divided between the claimants i.e. Amandeep Kaur and mother of deceased i.e. Paramjit Kaur as per ratio applied by the learned Tribunal. The enhanced amount of compensation shall carry interest @ 6% 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, both the appeal is allowed to the above extent.

So far as Insurance Company is concerned, it is proved that accident took place on account of rash and negligent driving of respondent No.1 and accordingly, issue No.1 was decided in favour of the claimants and against respondent No.1. After accident took place on 10.04.2012, on the same date itself the complainant lodged FIR i.e. Ex.C2 against the driver and he was facing a trial. He has been charged under Section 337, 338 IPC

for causing injuries. As per postmortem report Ex.C1, deceased Harpal

Singh received injuries in the accident and died on account of those injuries and finding was recorded that accident took place on the negligence of respondent No.1. Moreover, respondent No.1 was holding valid driving licence and registration certificate of vehicle at the time of accident which was proved and placed on record as Ex.R2 and Ex.R3 respectively. So in the light of the discussion, there is no need to interfere in the Award dated 12.07.2013. Hence the appeal qua insurance Company stands dismissed.

July 11, 2017
anil

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No