

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.4852 of 2014 (O&M)

Date of Decision: 07.09.2017

Lalita and others

.....Appellants

Vs.

Kuldeep and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Sumit Gupta, Advocate, for the appellants.

Mr.RBS Jain, 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 24.12.2013, passed by the learned Motor Accident Claims Tribunal, Jhajjar (for short, 'the Tribunal') vide which compensation to the tune of Rs.12.20,000/- was awarded to the claimants on account of death of Vinod.

FACTS NOT IN DISPUTE

On 02.01.2012, , deceased Vinod @ Billu along with his friend Kapil were going to Rohtak from their village Jahazgarh on a motor cycle bearing registration No.HR-77-2164 for their personal work. The deceased-Vinod Kumar was driving the said motorcycle. When they reached near the area of village Bauland at about 4:00 p.m., then a Splender motor cycle bearing registration No.HR-12-R-4340 came from Rohtak side which was driven by respondent No.1 in a rash and negligent manner and very high speed and hit against the motorcycle of deceased Vinod by coming from

wrong side. Due to this impact, the deceased received multiple inuuries and the driver of the offending motor cycle also sustained injuries. The deceased Vinod breathed his last while he was being taken to PGIMS Rohtak for treatment by Anjkali. A criminal case vide FIR No.3 dated 03.1.2012 under Section 279/337/304A IPC was registered in P.S.Rohtak.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 35 years old as ope his PMR Ex.P-2. 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	Rs.8,000/- X 12= Rs.96,000 per annum
2.	1/4 th deduction	Rs.96,000/-Rs.24000/= Rs.72,000/- per annum
3.	After applying multiplier total loss of dependency	Rs72,000/- X 16=Rs.11,52,000/-
4.	Transportation and funeral expenses	Rs.25,000/-
5.	Love and affection and consortium	Rs.43,000/-
	Total	Rs.12,20,000/-

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; 'Munna Lal Jain and another vs. Vipin Kumar Sharma and others, 2015(3) Recent Apex Judgments 459'** Learned counsel submits that 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.

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:-

Sr.No.	Heads of compensation	Amount
1	Income	Rs.8,000/- X 12= Rs.96,000 per annum
2.	1/4 th deduction	Rs.96,000/-Rs.24000/=Rs.72,000/- per annum
3.	After applying multiplier total loss of dependency	Rs72,000/- X 16=Rs.11,52,000/-
4.	Transportation and funeral expenses	Rs.25,000/-
5.	Loss of consortium	Rs.1,00,000/-
5.	Love and affection Rs.1,00,000/- each of 3 minors and Rs.50,000/- each parents of the deceased	Rs.4,00,000/-
	Total reassessed compensation	Rs.16,77,000/-
	Enhanced compensation	Rs.16,77,000/- ---- Rs.12,20,000/-=Rs.4,57,000/-

Resultantly, the enhanced amount of compensation of Rs.4,57,000/- 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

07.09.2017

anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No