

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

**FAO No.5054 of 2014  
Date of decision: 06.10.2017**

Ajaib Singh

....Appellant

Versus

Ravidass Transport Company (Regd.) and others

....Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**

Present: Mr. Kulwinder Singh, Advocate,  
for Mr. Sanjeev Goyal, Advocate,  
for the appellant.

Mr. Ramneek Vasudeva, Advocate,  
for respondent Nos. 1 & 2.

Mr. R.C. Kapoor, Advocate,  
for respondent No.3-Insurance Company.

**RITU BAHRI J. (Oral)**

**CM No.14389-CII of 2014**

In view of the averments mentioned in the application, same is allowed and delay of 104 days in filing of the appeal is condoned.

**FAO No.5054 of 2014**

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Sangrur (hereinafter referred to as 'the Tribunal') vide award dated 10.10.2013, on account of death of Mukhtiar Singh in a motor vehicular accident which took place on 29.04.2012. Appellant is son, respondent No.4 is daughter and respondent No.5 was wife of deceased-Mukhtiar Singh.

**FACTS NOT IN DISPUTE**

Brief facts of the case are that on 29.04.2012, at about 8.00

A.M., Mukhtiar Singh (since deceased) was going on his cycle from village

Bir Kalan towards Gurudwara Sahib. When he reached near Gurudwara Sahib, a bus bearing registration No. PB-11-AS-9177, being driven by Gurjant Singh-respondent No.1, came from behind and hit the cycle of Mukhtair Singh, as a result of which, he fell down and died at the spot. The accident was witnessed by Gulzar Singh. With regard to the accident, DDR No.14 dated 29.04.2012, under Section 174 Cr.P.C. was recorded at Police Station, Cheema. Consequently, the claimant i.e. appellant filed a claim petition before the Tribunal.

Upon notice, respondent Nos. 1 and 2 filed their joint written statement, wherein they denied the factum of accident in question. It was stated that the deceased was riding his cycle in a zig zag manner and was under the influence of some intoxicant. The bus was insured with respondent No.3, therefore, they were not liable to pay the compensation.

Respondent No.3-Insurance Company filed a separate written statement, stating therein that the bus in question was being plied without permit as well as passing from the competent authority.

From the pleadings of the parties, following issues were framed:-

1. Whether Mukhtiar Singh son of Narain Singh died due to rash and negligent driving of the bus bearing registration No. PB-11-AS-9177 being driven by respondent No.2 Gurjant Singh? OPP
2. Whether the claimant is entitled to compensation, if so, to what amount? OPP
3. Whether the respondent No.2 was having no valid and effective driving license at the time of accident? OPR-3
4. Whether the offending bus was plied without permit as well as passing from the competent authority? OPR-3
5. Relief.

**COMPENSATION ASSESSED BY THE MACT**

On the basis of evidence led by the parties, the Tribunal came to a conclusion that death of Mukhtiar Singh because of the aforesaid accident had been admitted by respondent Nos. 1 and 2. The death was further established from the postmortem report, Ex.C1 and the copy of DDR, Ex.C2. Since the claim petition was filed under Section 163-A of the Motor Vehicle Act, therefore, negligence of driver of the bus was not required to be proved. The Tribunal has assessed the compensation as per second schedule. In the absence of any evidence with regard to earnings of the deceased, his notional income, as per second schedule, was taken as Rs.15,000/- per annum. Out of this income, 1/3<sup>rd</sup> amount was deducted towards personal expenses of deceased. The dependency of claimants, thus, came to Rs.10,000/- per annum. As per postmortem report, deceased was 65 years of age at the time of accident/death. Accordingly, multiplier of 5 was applied. Thus, claimants were found entitled to compensation of Rs.50,000/- (10,000 x 5). Apart from this, Rs.20,000/- were awarded towards funeral expenses. Ultimately, claim petition was allowed and the claimants (appellant and respondent Nos.4 & 5) were held entitled to a total compensation of Rs.70,000/- along with interest @ 9% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-appellant has preferred the present appeal.

**REASSESSED COMPENSATION**

I have heard learned counsel for the parties and perused the case file.

The fact of accident is admitted and proved. It stands established that the deceased has died as a result of the accident. It is not in

dispute that the offending vehicle was fully insured with the Insurance Company. The deceased was 65 years of age at the time of death/accident. Therefore, notional income of the deceased has to be taken by taking reference of the judgment passed by Hon'ble the Supreme Court in **Kishan Gopal Vs. Lala and others**, 2013 AIR SC 2464. Further, the claimants are required to be awarded something under the conventional head as per another judgment passed by Hon'ble the Supreme Court in **R.K. Malik and another Vs. Kiran Pal and others**, 2009 (14) SCC 1. Accordingly, following the ration of the aforesaid judgments, the compensation is being reassessed as under:-

| Sr. No. | HEADS                                                                           | CALCULATIONS                                    |
|---------|---------------------------------------------------------------------------------|-------------------------------------------------|
| (i)     | Notional Income                                                                 | Rs.36,000/- per annum.                          |
| (ii)    | 1/3 <sup>rd</sup> of (i) above is deducted as personal expenses of the deceased | 36,000 + 12,000 = Rs.24,000/-                   |
| (iii)   | Compensation after multiplier of 05 is applied                                  | Rs.24,000 x 05 =<br>Rs.1,20,000/-               |
| (iv)    | Compensation towards all other heads (conventional)                             | Rs.75,000/-                                     |
| (v)     | <b>TOTAL COMPENSATION AWARDED</b>                                               | <b>Rs.1,95,000/-</b>                            |
| (vi)    | <b>Enhanced amount of compensation</b>                                          | <b>Rs.1,95,000 – 70,000 =<br/>Rs.1,25,000/-</b> |

The enhanced amount of compensation of **Rs.1,25,000/-** shall be payable within a period of two months 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 the 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.

Accordingly, the award stands modified to the above extent and  
the present appeal is partly allowed.

06.10.2017  
ajp

**(RITU BAHRI)**  
**JUDGE**

*Whether speaking/reasoned* : *Yes/No*  
*Whether reportable* : *Yes/No*