

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

**FAO No.5697 of 2013 (O&M)
Date of decision: 03.08.2017**

Manisha and others

....Appellants

Versus

Hawa Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: None for the appellants.

Mr. G.D. Gupta, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

CM-23898-CII-2013

In view of the averments mentioned in the application, same is allowed and delay of 275 days in filing of the appeal is condoned.

FAO-5697-2013

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Rewari (hereinafter referred to as 'the Tribunal') vide award dated 26.07.2010, on account of death of Krishan Kumar in a motor vehicular accident which took place on 23.04.2010. Appellant No.1 is widow, appellant No.2 is son and appellant No.3 is mother of deceased Krishan Kumar.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 23.04.2010, Krishan Kumar (since deceased) was going from Gurgaon towards his house on a

motorcycle bearing registration No. HR-85-D-8134. In the way, his brother-in-law Mukesh Kumar also joined him. At about 7.30/7.45 P.M., when they reached near village Mohanpur, a tractor bearing registration No. RJ-02-RA-6693 (loaded with mustard Turi), being driven by Hawa Singh-respondent No.1 in a rash and negligent manner, came from the opposite side at a very high speed and struck against the motorcycle of Krishan Kumar, as a result of which, he received serious and multiple injuries. Ultimately, he died at Trauma Centre, Rewari. With regard to the accident, FIR No.75 dated 23.04.2010, under Sections 279/337/304-A IPC was registered at Police Station, Bawal. Consequently, the claimants i.e. appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had been caused on account of rash and negligent driving of offending tractor bearing registration No. RJ-02-RA-6693 by Hawa Singh-respondent No.1. This finding was rightly given on the basis of deposition of Mukesh Kumar (PW-2), who was an eye witness of the accident.

As per salary slip, Ex.PW4/E, gross salary of Krishan Kumar-deceased was Rs.7015/- per month, which included basic pay of Rs.4800/-, HRA Rs.1715/-, TA Rs.500/- and other allowances. After deducting TA to the tune of Rs.500/-, the Tribunal had taken the income of deceased as Rs.6515/- per month, out of which, 1/4th amount was deducted towards his personal expenses. The annual dependency of claimants, thus, came to Rs.4887 x 12 = Rs.58,644. As per postmortem report, Ex.PC, the deceased was 28 years of age at the time of accident/death and the multiplier of 17

was applied. Thus, the claimants were found entitled to compensation of Rs.9,96,948/-. In addition to it, Rs.15,000/- were awarded towards loss of consortium, funeral expenses etc. Hence, the claimants were found entitled to a total compensation of Rs.10,11,948/- along with interest @ 6% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-appellants have 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. In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed in view of the judgments of *Asha Verman and others vs. Maharaj Singh and others*, 2015(2) RCR (Civil) 520, *New India Assurance Company Limited vs Gopali and others*, 2012 (12) SCC 198, *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, as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.6515/- per month
(ii)	50% of (i) above to be added as future prospects	6515 + 3257 = Rs.9772/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	9772 – 2443 = Rs.7329/-
(iv)	Compensation after multiplier of 17 is applied	Rs.7329/- x 12 x 17 = Rs.14,95,116/-

(v)	Loss of consortium for the widow (appellant No.1)	Rs.1,00,000/-
(vi)	Loss of love and affection for the son (appellant No.2)	Rs.1,00,000/-
(vii)	Loss of love and affection for the mother	Rs.50,000/-
(viii)	Funeral expenses	Rs.25,000/-
(ix)	TOTAL COMPENSATION AWARDED	Rs.17,70,116/-
(x)	Enhanced amount of compensation	Rs.17,70,116 – 10,11,948 = Rs.7,58,168/-

The enhanced amount of compensation of **Rs.7,58,168/-** 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.

(RITU BAHRI)
JUDGE

03.08.2017
ajp

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