

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.5948 of 2013

Date of decision:-24.08.2017

Raj Bala and others

...Appellants

Versus

Mohd. Rashid and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr.Arun Yadav, Advocate, for the appellants.

Ms.Harveen Kaur, Advocate, for respondent No.2.

Respondents No.1 and 3 proceeded ex-parte.

RITU BAHRI, J. (Oral)

Present appeal has been preferred by the claimant-appellant (for short 'the appellants'), against award dated 31.05.2013, passed by the learned Motor Accident Claims Tribunal, Rewari (for short, 'the Tribunal') vide which compensation to the tune of Rs.17,73,704/- was awarded to the claimants on account of death of Sh.Sudesh Kumar.

FACTS NOT IN DISPUTE

On 11.08.2009, deceased-Sudesh Kumar with his colleague and six other other passengers were going from Jammu to Srinagar in a bus bearing registration NO.JK-01Y-0432 which was being driven by respondent No.1 in a rash and negligent and careless manner and without observing traffic rules and when he reached at Mehar in the area of Police Station Ramban on NH-1A at about 13.20, respondent No.1 lost his control over the bus and the bus fell in river Chenab. Some of the passengers got

son of Ram Avtar, resident of Narsinghpur Garhi, District Rewari and Mohd. Saddik, resident of Jamlayan, Tehsil Mahoru, District Reasi drowned in Chenab river. The matter was also reported to Police Station Ramban, District Punch (J&K) vide FIR No.128 dated 11.08.2009 under Sections 279,337, 304-A IPC.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the injured was 32 years old and was working as Head Constable in RPF. His monthly income stated to be Rs.20000/-. Deceased Sudesh Kumar was working as Head Constable in Railway Protection Force and he was posted at Mazhom District Badgaon (J&K) and was drawing Rs.16,194/- per month of July 2009. The learned Tribunal has taking his income as Rs.13,817/- after deducting the allowance i.e. TPT, ration money, Hill allowances, washing allowance. 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	Monthly income	13,817/- per month
2.	Deduction 1/3rd	Rs.13,817/- --- Rs.4605/= Rs.9,212/- per month
3.	Total loss of income after applying the multiplier	Rs.9212/- X 12X16= Rs.17,68,704/-
4.	Loss of consortium	Rs.5,000/-
	Total Assessed compensation	Rs.17,73,704/-

Learned counsel for the claimants/appellants contends that the compensation awarded by the Tribunal is on the lower side and deserves to be enhanced, in view of the judgment of "**Rajesh and others vs. Rajbir**

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.

RE-ASSESSED COMPENSATION

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

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	Monthly income	13,817/- per month
2.	Deduction 1/3rd	Rs.13,817/- --- Rs.4605/= Rs.9,212/- per month
3.	Total loss of income after applying the multiplier	Rs.9212/- X 12X16= Rs.17,68,704/-
4.	Loss of consortium	Rs.1,00,000/-
5.	Love and affection Rs.1,00,000/- each of two minors	Rs.2,00,000/-
	Total Assessed compensation	Rs.20,68,704/-
	Enhanced Compensation	Rs.20,68,704/- ---- Rs.17,73,704/-= Rs.2,95,000/-

Respondents No.1 and 3 were proceeded against ex-parte. Thus respondent No.1 being driver and respondent No.2 being owner of the offending vehicle are jointly and severally liable to satisfy the award.

Resultantly, the enhanced amount of compensation of Rs.2,95,000/- 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

24.08.2017

anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No