

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-5499-2014

Date of Decision:- 01.08.2017

Harbans Kaur and another

.....Appellants

Versus

Kuldip Singh and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Kushagra Mahajan, Advocate,
for the appellants.

None for the respondents.

RITU BAHRI, J. (Oral)

Present appeal has been preferred by the claimants-appellants (for short 'the appellant'), seeking enhancement of the amount of compensation awarded by the learned Motor Accident Claims Tribunal, Amritsar (for short, 'the Tribunal') to the tune of ₹3,89,200/-, vide impugned award dated 03.03.2014.

FACTS NOT IN DISPUTE

On 28.09.2012, appellant No.3 and his father Joginder Kumar (since deceased) were going towards Vallah Mandi on their bicycles. At about 2.30 PM, when they reached at Mehta road before

Josan Hospital, Amritsar, a truck bearing No.PB-02-P-9927 being driven by respondent No.1, Kuldip Singh, in a rash and negligent manner and without blowing any horn at a high speed, struck with bicycle of Joingder Kumar, with the result of which he fell down on the road and suffered multiple grievous injuries. Appellant No.3 Mohit Kumar, immediately arranged a conveyance and was taking Joginder Kumar to the hospital but he succumbed to the injuries near Civil Hospital. The driver of the offending vehicle escaped from the spot. FIR No.71 dated 28.09.2012 was also registered.

Consequently, the claimants-appellants had filed a claim petition before the Tribunal.

Before the Tribunal, on the basis of the evidence led by the parties, the Tribunal has come to a conclusion that the accident in question was occurred due to the rash and negligent driving by respondent No.1. The Tribunal has taken the income of deceased as ₹3,600/- per month and annual income comes to ₹43,200. Out of which, 1/3rd amount was deducted towards personal expenses. The dependency of the claimants, thus, came to ₹28,800/- per annum. As per post mortem report Ex.PB., age of deceased Joginder Kumar was 60 years, the multiplier of '9' was applied. Thus, the claimants were found entitled to compensation of ₹2,59,200/- In addition to it, further compensation of ₹25,000/- was awarded towards funeral expenses, ₹5,000/- for loss of estate and ₹1,00,000/- for loss of consortium. Hence, the claimants-appellants were found entitled to total compensation of ₹3,89,200/- along

with interest at the rate of 7.5% per annum from the date of filing of the petition till the date of award.

Feeling dis-satisfied with the aforesaid Award, the present appellants have preferred the present appeal.

Learned counsel for the appellants contends that the Tribunal has erred in awarding the compensation, in view of the judgment of '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', 'Asha Verman and others vs. Maharaj Singh and others, 2015(2) RCR (Civil) 520 and 'Kalpanaraj and others vs. Tamil Nadu State Transport Corporation, 2015(2) SCC (Civil) 193. Moreover, the Tribunal has also not granted the benefit of future prospects while determining the compensation amount.

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.

As per notification dated 15.11.2012, issued by the Punjab Labour Department, w.e.f. 01.09.2012, the minimum wages for unskilled labour was ₹5200/- per month.

Following the ratio of law laid down by Hon'ble the Supreme Court in the above mentioned judgments and taking into consideration the facts of the present case, the compensation has to be reassessed as follows:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	₹5200/- per month
(ii)	15% Future prospects	₹5200/- + ₹780/- = ₹5980/-
(iii)	1/4 th Less on account of dependency	₹5980 – ₹1495 = ₹4485/-
(iii)	Compensation after multiplier of 9 is applied	₹4,485 X 12 X 9 = ₹4,84,380/-
(iv)	Loss of love and affection to three children	₹1,50,000 (Rs.50,000/- each)
(v)	Loss of consortium	₹1,00,000
(ix)	Funeral expenses	₹25,000/-
(x)	Total Compensation awarded	₹7,59,380/-
(xi)	Enhanced amount of compensation	₹7,59,380 – ₹3,89,200/- = ₹3,70,180/-

The enhanced amount of compensation of ₹3,70,180/- 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.

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

August 01, 2017
naresh.k

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No