

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

FAO No.5598 of 2014

Date of Decision: 08.08.2017

Raghbir Kaur

.....Appellant

Vs.

Anil Kumar and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:-

Mr.Bhupindar Ghai, Advocate, for the appellant.

Ms.Monika Jalota, Advocate, for
respondent No.1.

Mr.Neeraj Khanna, Advocate, for
Mr.Ravinder Arora, 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 15.04.2014, passed by the learned Motor Accident Claims Tribunal, Fatehgarh Sahib (for short, 'the Tribunal') vide which compensation to the tune of Rs.4,79,569/- was awarded to the claimants on account of death of Sukhdev Singh.

FACTS NOT IN DISPUTE

On 04.12.2011, Sukhdev Singh son of Hazara Singh

resident of village Akalgarh, Tehsil Nabha, District Patiala, along with Jarnail Singh Ex-Sarpanch of Village Akalgarh, Police Station Amloh, District Fatehgarh Sahib was going from Amloh towards his village Akalgarh on Hero Honda Splendor motorcycle bearing registration No.PB-34-A-0295. While the motorcycle was being driven by Sukhdev Singh, Jarnail Singh was pillion riding. When they reached near village Bhadal Thuha, Tehsil Amloh, District Fatehgarh Sahib, a Maruti EECO Ambulance bearing registration No.PB-11-AS-9458 came from the side of Amloh. The offending Ambulance was being driven by respondent No.1- Anil Kumar at a very high speed and in a rash and negligent manner. The said offending Ambulance struck against the Hero Honda Motorcycle driven by Sukhdev Singh and as a result whereof, both Sukhdev Singh and Jarnail Singh fell into the nearby pits and suffered multiple injuries. They were taken to Civil Hospital, Amloh from where Sukhdev Singh on account of his serious condition was taken to A.S.Inscol Hospital, Sector-34, Chandigarh at Hospital, where he died on 08.12.2011. An FIR (Ex.C-2) has been registered against the offending vehicle.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 67 years old and the as per his driving licence. The factum of accident had been proved and the offending vehicle was insured with respondent

No.3-Insurance Company. In this view, the compensation on different heads are assessed as under:

Sr.No.	Heads of compensation	Amount
1	Income	Rs.5,000/- X12 =Rs.60,000/- per annum
2.	Deduction 1/3 rd on account dependency of	Rs.60,000/- ----- Rs.20,000/- =Rs.40,000/-
3.	Future prospect 30%	Rs.40000/- + Rs.12,000/-= Rs.52,000/-
4.	After applying multiplier	Rs.52000 X 5= Rs.2,60,000/-
5.	Expenses on treatment	Rs.1,69,569/-
6.	Funeral expenses	Rs.25,000/-
7.	Loss of consortium	Rs.25,000/-
	Total	Rs.4,79,569/-

Learned counsel for the claimant-appellant contends that the compensation awarded by the Tribunal is on the lower side and deserves to be enhanced. Learned counsel submits that the loss of consortium awarded by the Tribunal is on the lower side and further 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.

It is not in dispute that the offending vehicle was fully insured with the Insurance company. The compensation on account of future prospects has been given wrongly because as per judgment of Hon'ble Supreme Court in the case of Rajesh and others Vs. Rajbir Singh and others 2031 (9) SCC 54, 15% of the income as future prospect was to be given till the age of 50-60 years of the deceased. In this case nothing is to be provided to the claimants on this account. 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.5,000/- X12 =Rs.60,000/- per annum
2.	Deduction 1/3 rd on account dependency of	Rs.60,000/- ----- Rs.20,000/- =Rs.40,000/-
3.	After applying multiplier	Rs.40000 X 5= Rs.2,00,000/-
5.	Expenses on treatment	Rs.1,69,569/-
6.	Consortium	Rs.1,00,000/-
6.	Funeral expenses	Rs.25,000/-
7.	Loss of consortium	Rs.25,000/-
	Total	Rs.5,19,569/-
	Reassessed compensation	Rs.5,19,569/- ---- Rs. 4,79,569 =Rs.40,000/-

Resultantly, the enhanced amount of compensation of Rs.40,000/- 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

08.08.2017

anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No