

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

**FAO No.4142 of 2015 (O&M)
Date of decision: 01.12.2017**

Vandana and others

....Appellants

Versus

Gurdev Lal and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ishan Singh Cooner, Advocate,
for Mr. Jagram Singh Cooner, Advocate,
for the appellants.

Mr. V. Ram Swaroop, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Ambala (hereinafter referred to as 'the Tribunal') vide award dated 02.03.2015, on account of death of Satish Kumar in a motor vehicular accident which took place on 12.10.2014. Appellant No. 1 is widow, appellant No.2 is son and appellant Nos.3 and 4 are parents of deceased Satish Kumar.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 12.10.2014, Satish Kumar (deceased) along with his wife Vandana and minor son Pushkar, was going from village Manakpur to village Rampur on a motorcycle bearing registration No.HR-71-B-9452. Surender Kumar, brother of Satish Kumar

and Tarsem Lal were following them on another motorcycle bearing registration No. HR-02-J-0240. At about 5.40 P.M., when they reached near Bus Stop, Rukari in the area of village Dheen on Ambala-Jagadhri Road, an Indigo Car bearing registration No. HR-01-AG-1039 being driven by Gurdev Lal-respondent No.1 in a rash and negligent manner, came from the side of Dosarka and struck against the motorcycle of Satish Kumar, as a result of which, he (Satish Kumar) fell down on the road along with his motorcycle, whereas his wife (Vandana) and minor son (Pushkar) fell down on the berm of the road. Satish Kumar suffered serious injuries on his head and died at the spot. Surinder Kumar and Tarsem Lal took him to M.M. Hospital, Mullana, where he was declared brought dead. With regard to the incident, FIR Ex.P7 was registered. Consequently, the claimants-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 car by Gurdev Lal-respondent No.1, as a result of which Satish Kumar has died and thus, returned the finding on issue no.1 in favour of the claimants. This finding was rightly given on the basis of the fact that after the accident, FIR No.221 dated 13.10.2014, under Sections 279/336/304-A IPC was registered against respondent No.1.

In the absence of any documentary proof, income of the deceased as assessed as Rs.6000/- per month, out of which, 1/3rd amount was deducted towards his personal expenses. The deceased was 32 years of age at the time of accident/death. After applying the multiplier of 16, dependency of the claimants came to be Rs.7,68,000/- (48,000/- x 16). In

addition to it, Rs.1,00,000/- were awarded on account of love and affection, pain, agony and loss of consortium. Rs.30,000/- were awarded towards funeral expenses. Hence, the claimants were found entitled to total compensation of Rs.8,98,000/- along with interest @ 7.5% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimants-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 passed by Hon'ble the Supreme Court in Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77 and National Insurance Company Limited Vs. Pranay Sethi and others, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017), as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.6000/- per month
(ii)	40% of (i) above to be added as future prospects	6000 + 2400 = Rs.8400/-
(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	8400 – 2800 = Rs.5600/-
(iv)	Compensation after multiplier of 16 is applied	Rs.5600/- x 12 x 16 = Rs.10,75,200/-
(v)	Compensation under all other heads	Rs.70,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.11,45,200/-
(vii)	Enhanced amount of compensation	Rs.11,45,200 – 8,98,000 = Rs.2,47,200/-

The enhanced amount of compensation of **Rs.2,47,200/-** 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

01.12.2017

ajp

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