

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

**FAO No.6428 of 2013 (O&M)
Date of decision: 19.09.2017**

Sudarshana Kumari and others

....Appellants

Versus

Gulshan Kumar and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Ms. Priya Deep, Advocate,
for Ms. Ekta Thakur, Advocate,
for the appellants.

Mr. M.B. Jain, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal') vide award dated 01.11.2013, on account of death of Bikram Chand in a motor vehicular accident which took place on 04.01.2011. Appellant No. 1 is widow and appellant Nos.2 & 3 are sons of deceased Bikram Chand.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 04.01.2011, Bikram Chand (since deceased) was going from the factory (M/s APSCO Prefabs Pvt. Ltd.) towards Mubarikpur on a scooter bearing registration No. PB-13-K-8661.

At about 2:30P.M., when he reached near Mubarikpur road, a Tanker

bearing registration No. PB-11-AL-9945 being driven by Gulshan Kumar-

respondent No.1 in a rash and negligent manner, came from the side of Mubarikpur at a very high speed and struck against the scooter of Bikram Chand, as a result of which, he fell down on the road and received multiple injuries on various parts of the body. He was taken to Civil Hospital, Derabassi, from where, he was referred to GMCH, Sector 32, Chandigarh. However, he succumbed to the injuries on the same day. The accident was witnessed by Darvesh Chand and Sukhwinder Singh. With regard to the accident, FIR Ex.P1 was registered against respondent No.1-Gulshan Kumar. 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 vehicle (tanker) by respondent No.1 and thus, returned the finding on issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of Darvesh Chand (PW-2), who was an eye witness of the accident and whose statement, FIR, Ex.P1 was registered.

In the evidence of any substantial evidence, income of the deceased was assessed as Rs.5000/- per month, out of which, 1/3rd amount was deducted towards his personal expenses. The dependency of claimants, thus, came to Rs.3334/- per month i.e. Rs.40,008/- per annum. As per postmortem report Ex.P4, Bikram Chand was 43 years of age at the time of accident/death and the multiplier of 14 was applied. Thus, the claimants were found entitled to compensation of Rs.5,60,112/- (Rs.40,008/- x 14). In addition to it, 30% has been added towards future prospects, Rs.1,00,000/-

towards loss of consortium, Rs.25,000/- as funeral expenses and Rs.50,000/- towards love and affection. Ultimately, the claim petition was allowed and claimants were found entitled to Rs.9,03,145/- along with interest at the rate of Rs.7.50% per annum. 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. A perusal of the impugned award shows that compensation on account of love and affection has been granted on the lower side. Hence, 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.5000/- per month
(ii)	30% of (i) above is added towards future prospects	5000 + 1500 = Rs.6500/-
(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	6500 – 2166 = Rs.4334/-
(iv)	Compensation after multiplier of 14 is applied	Rs.4334/- x 12 x 14 = Rs.7,28,112/-

(v)	Loss of consortium for the widow (appellant No.1)	Rs.1,00,000/-
(v)	Loss of love and affection for the children (appellant Nos.2 & 3)	Rs.2,00,000/- (Rs.1,00,000/- each)
(vi)	Funeral expenses	Rs.25,000/-
(vii)	TOTAL COMPENSATION AWARDED	Rs.10,53,112/-
(viii)	Enhanced amount of compensation	Rs.10,53,112 – 9,03,145 = Rs.1,49,967/-

The enhanced amount of compensation of **Rs.1,49,967/-** 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

19.09.2017
ajp

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