

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

**FAO No.6097 of 2014 (O&M)
Date of decision: 21.11.2017**

Rajbala and another

....Appellants

Versus

Satbir and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. K.C. Rajput, Advocate,
for the appellants.

Mr. Ashit Malik, 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, Sonapat (hereinafter referred to as 'the Tribunal') vide award dated 26.11.2013, on account of death of Jasbir in a motor vehicular accident which took place on 12.01.2013. Appellants are parents of deceased Jasbir.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 12.01.2013, Jaivir (since deceased) along with his brother Jaivir was coming from village Bidhal to Sonapat for giving *sidha* to their sister on a motorcycle bearing registration No.HR-11-E-4267. Motorcycle was being driven by Jasbir. At about 4:00 P.M., when they reached near Bus State, Mohana, a vehicle (Maximo) bearing registration No. HR-56-A-2378 being driven by Satbir Singh-

respondent No.1 in a rash and negligent manner, came from the side of

Sonepat and struck against the motorcycle, as a result of which, both the occupants of the motorcycle fell down and received serious injuries. Jasbir was taken to GH, Sonepat, where he was declared dead. With regard to the incident, FIR No. 03 dated 12.01.2013, under Sections 279/337/304-A IPC was registered at Police Station, Mohana against respondent No.1. Consequently, the claimant-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 contributory negligence of both the drivers of the vehicle i.e. deceased and respondent No.1. This finding was given on the basis of deposition of Jaivir (PW-2), who was an eye witness of the accident and on whose statement FIR Ex.P6 was recorded. During cross-examination, PW-2 had admitted that it was a head on collision.

In the absence of any documentary proof, income of the deceased was assessed as Rs.4500/- per month as that of a casual labourer, out of which, 50% amount was deducted towards his personal expenses, which came to be Rs.2250/- per month i.e. Rs.27,000/- per annum. The deceased was 20 years of age and was bachelor at the time of death/accident. Accordingly, multiplier of 18 was applied. After applying the multiplier of 18, dependency of claimants came to Rs.4,86,000/- (27000/- x 18). In addition to it, Rs.25,000/- were awarded on account of funeral expenses and Rs.5,000/- for loss of estate. Hence, the claimants were found entitled to total compensation of Rs.5,16,000/- along with interest @ 7.5% per annum from the date of filing of the petition till

realization. In view of the judgment passed by this Court in **Sukhbir Singh and another Vs. Ram Mehar and others**, 2011 (2) PLR 97, liability to pay the compensation amount was ordered to be shared to the extent of 50% by owner of the motorcycle and 50% by respondent Nos.1 to 3 jointly and severally. Feeling dissatisfied with the impugned award, the claimant-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.4500/- per month
(ii)	40% of (i) above to be added as future prospects	4500 + 1800 = Rs.6300/-
(iii)	50% of (ii) above is deducted as personal expenses of the deceased	6300 – 3150 = Rs.3150/-
(iv)	Compensation after multiplier of 18 is applied	Rs.3150/- x 12 x 18 = Rs.6,80,400/-
(v)	Funeral expenses and loss of estate etc.	Rs.30,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.7,10,400/-
(vii)	Enhanced amount of compensation	Rs.7,10,400 – 5,16,000 = Rs.1,94,400/-

The enhanced amount of compensation of **Rs.1,94,400/-** 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

21.11.2017

ajp

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