

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.99 of 2013 (O&M)

Date of Decision: 06.11.2017

Kashmiro Devi

.....Appellant

Vs.

Jaswinder Singh and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.M.K. Garg, Advocate,
for the appellant.

Mr.Neeraj Khanna, Advocate, and
Mr.Ravinder Arora, Advocate, for
the respondent/Insurance Co.

RITU BAHRI, J. (ORAL)

CM No.474-CII of 2013

For the reasons stated in the application, delay of 127 days in filing the appeal is condoned.

Application stands disposed of.

Main Case

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 24.04.2012, passed by the learned Motor Accident Claims Tribunal, Fatehabad (for short, 'the Tribunal') vide which compensation to the tune of Rs.3,05,000/- was awarded to the claimant on account of death of Malkiat Singh.

FACTS NOT IN DISPUTE

On 10.12.2010, the deceased Malkiat Singh along with Surender Singh claimant was proceedings towards village Khanori, District Sangrur on motorcycle bearing registration No.HR-23D/5459. When they reached opposite State Bank of Patiala in the area of village Khanori, then offending vehicle bearing registration No.PB-13U-4165 and which was being driven in

a rash and negligent manner by Jaswinder Singh respondent came from the opposite direction and struck against one lady and who fell down on the road. After that, the offending vehicle struck against the ill-fated vehicle resulting injuries to both its occupants. Even the offending vehicle did not stop there and which against struck against one car bearing registration NoHR-08-3798. Due to this impact, Malkeet Singh as well as Surinder Sharma fell down from the ill-fated vehicle and were taken to Civil Hospital, Tohana and ultimately succumbed to the injuries. An FIR No.93 dated 10.12.2010 for the offence punishable under Section 279/337/304- and 427 of IPC was registered against respondent No.1.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 21 years old as per his postmortem report Ex.P14 and the claimants failed to produce on the record any documentary evidence regarding income of the deceased. The factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company.

Sr.No.	Heads of compensation	Amount
1	Salary per month	Rs.5000/-
2.	Deduction 50%	Rs.5,000/- --Rs.2500/- =Rs.25,00/-
3.	Annual loss of dependency after applying the multiplier	Rs.2500/- X 12 X 9= Rs.2,70,000/-
4.	Last rites	Rs.10,000/-
5.	Love and affection	Rs.25,000/-
	Total	Rs.3,05,000/-

Learned counsel for the claimant-appellant contends that the compensation awarded by the Tribunal is on the lower side and deserves to the enhanced, in view of the judgment "**Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77'; National Insurance Company Ltd. Vs. Pranay Sethi and others SLP(C) 25590 of 2014 decided on 31.10.2017.** 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. 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	Salary per month	Rs.5000/-
2.	Deduction 50%	Rs.5,000/- --Rs.2500/- =Rs.25,00/-
3.	Annual loss of dependency after applying the multiplier	Rs.2500/- X 12 X 18= Rs.5,40,000/-
4.	Last rites	Rs.15,000/-
5.	Love and affection	Rs.25,000/-
	Total	Rs.5,80,000/-
	Enhanced amount of compensation	Rs.5,80,000/- ----Rs.3,05,000/- =Rs.2,75,000/-

Resultantly, the enhanced amount of compensation of Rs.2,75,000/- 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

06.11.2017
anil

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