

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

**FAO No.6221 of 2014
Date of Decision: 13.09.2017**

Mahabir and Anr.

.....Appellants

Vs.

Kultar Singh and Others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.R.K.Agnihotri, Advocate, for the appellants.

Mr.Sanjeev Kodan, 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 24.04.2014, passed by the learned Motor Accident Claims Tribunal, Karnal (for short, 'the Tribunal') vide which compensation to the tune of Rs.6,36,500/- was awarded to the claimants on account of death of Ram Chander.

FACTS NOT IN DISPUTE

On 05.09.2011, Satish Kumar was standing in front of his shop which was situated opposite Oriental Bank of Commerce, Nissing. At about 3:15 p.m, Ram Chander deceased came on his motor cycle bearing registration No.HR05T0621 Yamaha Crux and was going to his shop. In the meantime, a truck bearing registration No.HP 12A 8949 being driven in a rash and negligent manner by respondent No.1 came and hit the motorcycle of the deceased. Due to impact, the deceased fell down on the road along with his motorcycle and his head was crushed under the wheels of the truck. The truck stopped at a distance. Its driver told his name as Kulwant Singh

son of Ajit Singh. Deceased Ram Chander became unconscious on the spot and was taken to CHC Nissing where he was declared dead. A formal FIR No.417 dated 05.09.2011 was registered in the police station Nissing.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 23 years old on the basis of postmortem report Ex.p6.. 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	Income as per minimum wages	Rs.4500/- per month
2.	Future prospect (50%)	Rs.4500/- + Rs.2250/-=Rs.6750/-
3.	Deduction (50%) as personal expenses	Rs.6750/--Rs.3375/-= Rs.3375/-
4.	Total loss of dependency after applying multiplier	Rs.3375/- X 12 X 13= Rs.5,26,500/-
5.	Love and affection, deprivation of protection, social security etc.	Rs.1,00,000/-
6.	Transportation and Funeral expenses	Rs.5,000/-
	Total Assessed compensation	Rs.6,36,000/-

Learned counsel for the claimant-appellant contends that the compensation awarded by the Tribunal is on the lower side and deserves to be enhanced, in view of the judgment "**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;** '**Munna Lal Jain and another vs. Vipin Kumar Sharma and others, 2015(3) Recent Apex Judgments 459'**. Learned counsel submits that 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.

The learned Tribunal has taken the income of the deceased as Rs.4500/- per month but the deceased was working as mason and keeping in view the minimum rate of wages in State of Haryana, the income of the semi skilled worker would be Rs.5,000/- at that time. As such, the income of the deceased is taken as Rs.5,000/- per month.

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	Income as per semi skilled worker	Rs.5000/- per month
2.	Future prospect (50%)	Rs.5000/- + Rs.2500/-=Rs.7500/-
3.	Deduction (50%) as personal expenses	Rs.7500/--Rs.3750/-= Rs.3750/-
4.	Total loss of dependency after applying multiplier	Rs.3750/- X 12 X 17= Rs.7,65,000/-
5.	Love and affection Rs.1,00,000/- to each of the parents.	Rs.2,00,000/-
6.	Funeral expenses	Rs.25,000/-
	Total Assessed compensation	Rs.9,90,000/-
	Enhanced compensation	Rs.9,90,000/- ---Rs.6,36,500/- =Rs.3,53,500/-

Resultantly, the enhanced amount of compensation of Rs.3,53,500/- 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 @ 6% 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

13.09.2017
anil

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>