

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-4633-2015

Date of Decision:- 12.09.2017

Kanchan Gupta and others

.....Appellants

Versus

Shankar Lal and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Raja Sharma, Advocate,
for the appellants.

None for the respondents.

RITU BAHRI, J. (Oral)

Present appeal has been preferred by the claimants-appellants (for short 'the appellant'), seeking enhancement of the amount of compensation awarded by the learned Motor Accident Claims Tribunal, Faridabad (for short, 'the Tribunal') to the tune of ₹6,65,000/-, vide impugned award dated 12.01.2015.

FACTS NOT IN DISPUTE

On 14.01.2013, Mukesh Kumar (since deceased) was coming back from his factory on motorcycle No.HR-51T-1710. When he reached at Havel's cut near Punjab National Bank on Mathura Highway, a truck (Dumper) No.HR-55E-5405, being driven by respondent No.1 in a rash and negligent manner came and hit his motorcycle from behind.

Resultantly, he and his motorcycle fell on road and received multiple injuries on different parts of his body. The driver of the offending vehicle escaped from the spot. Thereafter, injured Mukesh Kumar was taken to the B.K. Hospital from where he was referred to Sardarjang Hospital, New Delhi. He died on the way. FIR No.11 dated 15.01.2013 was also registered.

Consequently, the claimants-appellants had filed a claim petition before the Tribunal.

Before the Tribunal, on the basis of the evidence led by the parties, the Tribunal has come to a conclusion that the accident in question was occurred due to the rash and negligent driving by respondent No.1. The Tribunal has taken the income of deceased as ₹5,000/- per month and annual income comes to ₹60,000/- Out of which, 1/3rd amount was deducted towards personal expenses. The dependency of the claimants, thus, came to ₹40,000/- per annum. The multiplier of '16' was applied. Thus, the claimants were found entitled to compensation of ₹6,40,000/-. In addition to it, the claimants were awarded ₹25,000/- as consortium and hence, the claimants-appellants were found entitled to total compensation of ₹6,65,000/- along with interest at the rate of 7.5% per annum from the date of filing of the petition till realization.

Feeling dis-satisfied with the aforesaid Award, the present appellants have preferred the present appeal.

Learned counsel for the appellants contends that the Tribunal

has erred in awarding the compensation, in view of the judgment of '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', 'Asha Verman and others vs. Maharaj Singh and others, 2015(2) RCR (Civil) 520 and 'Kalpanaraj and others vs. Tamil Nadu State Transport Corporation, 2015(2) SCC (Civil) 193. Moreover, the Tribunal has also not granted the benefit of future prospects while determining the compensation amount.

Learned counsel further contends that in the present case, Mr. B.S. Yadav, Manager (HR) of M/s Mega Forge (P) Ltd, Faridabad, who has appeared as PW-3, stated that deceased-Mukesh Kumar was working in that Company through their Contractor M/s P.S. Associates and was getting the Salary of ₹4,967/- per month. He proved Ex.P7 in this regard. During cross-examination, he stated that he had no document regarding employment of Mukesh Kumar. He admitted that Ex.P7 had no signatures of any authorized person of company and the same had not paid salary to deceased.

I have heard learned counsel for the parties and perused the record.

RE-ASSESSED COMPENSATION

It is not in dispute that the offending vehicle was fully insured with the Insurance Company.

Keeping in view the fact that the salary slip issued by the Contractor, treated the deceased to be highly skilled worker, the income assessed by the Tribunal requires to be increased in view of the judgment of the Hon'ble Supreme Court passed in case **Minu Rout and another Vs. Satya Pradyumna Mohapatra and others**, 2013(4) R.C.R. (Civil) 871.

Following the ratio of law laid down by Hon'ble the Supreme Court in the above mentioned judgments and taking into consideration the fact that the deceased in the present case had been employed by a contractor, he has three children, who were studying in Private Schools, his come has been raised to ₹7,000/- per month and accordingly, the compensation has to be reassessed as follows:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	₹7000/- per month
(ii)	50% Future prospects	₹7000/- + ₹3500/- = ₹10,500/-
(iii)	1/4 th Less on account of dependency	₹10,500 – ₹2,625 = ₹7,875/-
(iii)	Compensation after multiplier of '16' is applied	₹7,875 X 12 X 16 = ₹15,12,000/-
(iv)	Loss of love and affection to three children	₹3,00,000 (Rs.1,00,000/- each)
(v)	Loss of consortium	₹1,00,000
(vi)	Funeral expenses	₹25,000/-
(vii)	Total Compensation awarded	₹19,37,000/-
(viii)	Enhanced amount of compensation	₹19,37,000 – ₹6,65,000/- = ₹12,72,000/-

The enhanced amount of compensation of ₹12,72,000/- 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.

Accordingly, the Award stands modified to the above extent and the present appeal is partly allowed.

September 12, 2017
naresh.k

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No