

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

FAO No.4878 of 2015 (O&M)

Date of decision: 05.07.2017

Guddo Bai

.....Appellant

Versus

Rajender Singh and another

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. K.K. Chaudhary, Advocate,
for Mr. Sanjiv Gupta, Advocate,
for the appellant.

Ms. Sheenu, Advocate,
for Mr. Ravinder Arora, Advocate,
for respondent No.2-Insurance Company.

Ritu Bahri, J.

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Sirsa (hereinafter referred to as 'the Tribunal') vide award dated 22.10.2014 on account of death of Jeet Ram alias Jeeta in a vehicular accident, which took place on 25.11.2013. Appellant is widow of deceased Jeet Ram alias Jeeta.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 25.11.2013, at about 7/7-30 P.M., Jeet Ram alias Jeeta (husband of appellant) was going towards his house at village Mangala on foot, after taking meal at the house of Fauji Ram. Said Fauji Ram was also accompanying him. In the meantime, a Bolero vehicle bearing registration No. HR-44-C-8700, being driven by Rajender Singh-respondent No.1 in a rash and negligent manner came and

hit Jeet Ram alias Jeeta from behind, as a result of which, he suffered multiple injuries and became unconscious. Thereafter, he was taken to General Hospital, Sirsa, where the doctor on duty declared him dead. With regard to the accident, FIR No.314 dated 25.11.2013, under Sections 279/304-A IPC (Ex.P1) was registered at Police Station, Sadar, Sirsa, on the basis of statement made by Fauji Ram, eye witness. Consequently, the claimant-appellant 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 was caused on account of rash and negligent driving of Bolero vehicle bearing registration No. HR-44-C-8700 by Rajender Singh-respondent No.1. This finding is based on the deposition of Fauja Ram (PW-2), who was an eye witness of the accident and on whose statement, FIR (Ex.P1) was recorded. Ultimately, the claim petition was accepted by the Tribunal. In the absence of any proof of earning, income of the deceased was taken to be Rs.5000/- per month being a labourer, out of which Rs.1700/- were deducted on account of his personal expenses. The dependency of claimant, thus, came to Rs.3300/- per month. Annual dependency came to Rs.39,600/- (3300 x 12). As per postmortem report, age of the deceased was 55 years. Accordingly, after applying multiplier of 11, total compensation of Rs.4,35,600/- (3300 x 12 x 11) was awarded. Apart from this Rs.25,000/- were awarded as funeral expenses. The total amount of compensation (Rs.4,60,600/-) was to be paid with interest at the rate of 7.5% per annum from the date of filing of the petition till its realization.

Feeling dissatisfied with the impugned award, the claimant-appellant has 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. Reference can be made to a decision given by the Hon'ble Supreme Court in **Rajesh and others vs. Rajbir Singh and others**, 2013 (9) SCC 54, wherein it has been held that at the time of accidental death, in case the deceased was between the age group of 50-60 years, then addition in the income on account of future prospects, can be made up to 15%. In the present case, the deceased was aged about 55 years at the time of accident/death.

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 in **Rajesh's** case (supra), **Asha Verman and others vs. Maharaj Singh and others**, 2015(2) RCR (Civil) 520, **Sarla Verma and others vs. Delhi Transport Corporation and another**, 2009 (3) RCR (Civil) Page 77 and **Munna Lal Jain and another vs. Vipin Kumar Sharma and others**, 2015(3) Recent Apex Judgments 459, as under:-

SR. No.	HEADS	CALCULATION
(i)	Income	Rs.5000/- per month
(ii)	10% of (i) above to be added as future prospects	Rs.5000 + Rs.500 = Rs.5500/-
(iii)	1/3 rd of (ii) deducted as personal expenses of the deceased	Rs.5500 – 1800 = Rs.3700/-
(iv)	Compensation after multiplier of 11 is applied	Rs.3700 x 12 x 11 = Rs.4,88,400/-
(v)	Loss of consortium for widow	Rs.1,00,000/-
(vi)	Funeral expenses	Rs.25,000/-
(vii)	TOTAL COMPENSATION AWARDED	Rs.6,13,400/-

SR. No.	HEADS	CALCULATION
	Enhanced amount of compensation	Rs.6,13,400 – 4,60,600 = Rs.1,52,800/-

The enhanced amount of compensation of **Rs.1,52,800/-** 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.

05.07.2017
ajp

(RITU BAHRI)
JUDGE

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