

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.4944 of 2015 (O&M)
Date of Decision: 25.07.2017

Roshni

.....Appellant

Vs.

Vinod Kumar and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Surender Deswal, Advocate, for the appellant.

Mr.Subhash Goyal, Advocate, for respondent No.3.

RITU BAHRI, J. (ORAL)

CM No.15161-CII of 2015

For the reasons stated in the application, delay of 33 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 27.11.2014, passed by the learned Motor Accident Claims Tribunal, Karnal (for short, 'the Tribunal') to the tune of Rs.9,45,000/-.

FACTS NOT IN DISPUTE

On 21.04.2012, Sonu (now deceased) was driving motorcycle NO.HR-06/Q-3272 and was coming from Assandh. At about 3:30 p.m., when he reached near Dera Matu Ladra, a Canter bearing No.HR-45-5168 (hereinafter to be referred as offending vehicle) came from Jind side in a rash and negligent manner and hit the motorcycle, as a result of which Sonu received multiple and grievous injuries and died at the spot. The matter was

was registered against respondent No.1.

The Tribunal held that the deceased was 25 years old 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.

COMPENSATION ASSESSED BY MACT

<i>Sr. No .</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.5000/-
(ii)	Less 1/3 on account of dependency	Rs.5000/- -- Rs.1666/- = Rs.3334/- p.m.
(iii)	Compensation after multiplier of 18 is applied	Rs.3334/- X 12X 18= Rs.7,20,144/-
(iv)	Loss of consortium	Rs.1,00,000/-
(v)	Love and affection	Rs.1,00,000/-
(vi)	Funeral expenses	Rs.25,000/-
	Total	Rs.9,45,000/-

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'; Asha Verman and others vs. Maharaj Singh and others, 2015(2) RCR (Civil) 520 and Kalpanaraj and others v. Tamil Nadu State Transport Corporation, 2015(2) SCC (Civil) 193. Learned counsel submits that the loss of consortium awarded by the Tribunal is on the lower side and further 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.

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.

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:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.5000/- per month
(ii)	Future prospects (50% of salary)	Rs.5,000+ Rs.2500/- = Rs.7500/-
(iii)	Less 1/3 on account of dependency	Rs.7500/- -- Rs.2500= Rs.5000/-
(iv)	Compensation after multiplier of 18 is applied	Rs.5,000/- X12 X18= Rs.10,80,000/-
(v))	Funeral expenses	Rs.25000/- + Rs.5000= Rs.30,000/-
(vi)	Loss of love and affection	Rs.1,00,000/- (Rs.50,000/- each)
(ix)	Loss of consortium	Rs.1,00,000/-
(x)	Enhanced amount of compensation	Rs.13,10,000 – Rs.9,45,000/- =Rs.3,65,000/-

9. Resultantly, the enhanced amount of compensation of Rs.3,65,000- 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

25.07.2017

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