IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-514-2015 (O&M)
Date of decision: 18.08.2017

RAKESH SAHNI & ANR ...Appellants

Versus

SUMAN @ BALDEV KUMAR & ORS ...Respondents

CORAM: HON'BLE MS.JUSTICE RITU BAHRI

Present : Mr. N.S. Rapri, Advocate for the appellants.

Mr. Paul S. Saini, Advocate
for respondent No.3-Insurance Company.

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RITU BAHRI, J. (Oral)

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Hoshiarpur (hereinafter referred to as 'the Tribunal') vide award dated 10.09.2014 on account of death of Mahinder Ajay Sahni in a vehicular accident, which took place on 01.05.2011. Appellants are parents of deceased-Mahinder Ajay Sahni.

Brief facts of the case are that on 01.05.2011 deceased-Mahinder Ajay Sahni along with his brother Navrupam Sahni were going on their Honda Activa bike bearing registration No.PB-07-U-2992 from their home to Shimla Pahari Chowk, Hoshiarpur. When both of them reached near Adidas Show Room at Mall Road, Hoshiarpur, at about 10.15/10.20 p.m., then respondent No.1 brought his Discover motorcycle bearing registration No.PB-07-X-4693 at high speed and in rash and negligent manner. Respondent by bringing his motorcycle on wrong side, hit the same in said Activa, which was driven by Navrupam Sahni, brother of the deceased. With regard to the accident, FIR No.34 dated 02.05.2011, under Sections 304-A, 337, 338, 279 and 427 IPC was registered at Police Station, City, Hoshiarpur. Consequently, the claimants-appellants filed a claim petition before the Tribunal.

The Tribunal, on the basis of evidence led by the parties, accepted the claim petition and a sum of Rs.3,45,000/- was awarded as compensation on account of death of Mahinder Ajay Sahni along with interest at the rate of 7½% per annum from the date of filing of the petition till its realization. Respondent No.3 was exonerated from the liability. In the present case, respondent Nos.1 and 2 i.e. driver and owner of the offending vehicle have not come forward despite being served on 02.02.2017.

The compensation has been assessed by taking age of the deceased as 15 years and his notional income as per 2nd Schedule has been taken as Rs.15,000/- per annum, out of which 50% was deducted towards personal expenses. The dependency of claimants, thus, came to Rs.7,500/- per annum. The deceased was 15 years of age at the time of the accident/death and the multiplier of 13 was applied. Thus, the claimants were found entitled to compensation of Rs.97,500/- (7500 x 13). In addition to it, further compensation of Rs.25,000/- was awarded towards funeral expenses; Rs.10,000/- on account of loss of estate; and Rs.2,12,000/- was awarded towards medical expenses. Hence, the claimants were found entitled to total compensation of Rs.3,44,500/- (rounded figure is to be as Rs.3,45,000/-).

Feeling dissatisfied with the impugned award, the claimants-appellants have preferred the present appeal.

Counsel for the appellants seeks enhancement of compensation and contends that the multiplier applied on the basis of age of the parents but the same has to be applied on the basis of age of the deceased as per the judgement of Hon'ble the Supreme Court of India in **Munna Lal Jain and another vs. Vipin Kumar Sharma and others, 2015(3) SCC (Civil) 315,** wherein it has been observed that:-

> *"12. The remaining question is only on multiplier. The High Court following Santosh Devi (supra), has taken 13 as the multiplier. Whether the multiplier should depend on the age of the dependants or that of the deceased, has been hanging fire for sometime; but that has been given a quietus by another three-Judge Bench decision in Reshma Kumari (supra). It was held that the multiplier is to be used with reference to the age of the deceased. One reason appears to be that there is certainty with regard to the age of the deceased but as far as that of dependants is concerned, there will always be room for dispute as to whether the age of the eldest or youngest or even the average, etc., is to be taken. To quote:*
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> > *"36. In Sarla Verma, this Court has endeavoured to simplify the otherwise complex exercise of assessment of loss of dependency and determination of compensation in a claim made under Section 166. It has been rightly stated in Sarla Verma that the claimants in case of death claim for the purposes of compensation must establish (a) age of the deceased; (b) income of the deceased; and (c) the number of dependants. To arrive at the loss of dependency, the Tribunal must consider (i)*

> *additions/deductions to be made for arriving at the income; (ii) the deductions to be made towards the personal living expenses of the deceased; and (iii) the multiplier to be applied with reference to the age of the deceased. We do not think it is necessary for us to revisit the law on the point as we are in full agreement with the view in Sarla Verma."*

Counsel for respondent No.3 supports the impugned judgment and prays for dismissal of the present appeal.

I have heard learned counsel for the parties and perused the case file.

In the present case, the accident had taken place on 01.05.2011 and the age of the deceased was 15 years at the time of accident. Hon'ble the Supreme Court in **Kishan Gopal & Anr vs Lala & Ors, 2013 (4) RCR (Civil) 276,** had taken the notional income of the child aged 10 years as Rs.30,000/- per annum in the accident which took place way back in the year 1992. However, keeping in view the rising prices the notional income should be increased to Rs.4500/-.

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 of **New India Assurance Co. Ltd. vs. Gopali & others**, 2012 (12) SCC 198, **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, **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. Thus, the compensation reassessed as under:-

Sr. No.	Heads	Calculation
(i)	Income	Rs.4500/-
(ii)	50% of (i) above to be added as future prospects	Rs.4500/- + Rs.2250 = Rs.6750/-
(iii)	50% of (ii) deducted as personal expenses of the deceased	Rs.6750 - Rs.3375 = Rs.3375/-
(iv)	Compensation after multiplier of 18 is applied	Rs.3375 x 12 x 18 = Rs.7,29,000/-
(v)	Loss of love and affection for parents	Rs.1,00,000/- (Rs.50,000/- each)
(vi)	Funeral expenses	Rs.25,000/-
(vii)	Loss of estate	Rs.10,000/-
(viii)	Medical expenses	Rs.2,12,000/-
(ix)	TOTAL COMPENSATION AWARDED	Rs.10,76,000/-
(x)	Enhanced amount of compensation	Rs.10,76,000 – Rs.3,45,000 = Rs.7,31,000/-

The enhanced amount of compensation of Rs.7,31,000/- 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.

18.08.2017 **(RITU BAHRI)**
ashok **JUDGE**

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