

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.5188 of 2015
Date of Decision: 11.07.2017

Smt.Fulapatiya Devi and Anr.Appellants

Vs.

Samtosh and ors.Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Ms.Amandeep Kaur, Advocate, for the appellants.

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

RITU BAHRI, J. (ORAL)

CM No.15999-CII of 2015

For the reasons stated in the application, delay of 71 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 16.12.2014, passed by the learned Motor Accident Claims Tribunal, SAS Nagar Mohali (for short, 'the Tribunal') vide which compensation to the tune of Rs.13,48,200/- was awarded to the claimants on account of death of Manager Yadav.

FACTS NOT IN DISPUTE

On 06.04.2012, the deceased was going from Deri Bassi to Mubarakpur on the pillion seat of motorcycle bearing registration No.PB-65-N-4008 driven by Manager Yadav at a slow speed on its side. They were

being followed by Munna Yadav on a separate motorcycle. When they reached Rangi Estates near Truck Union Derabassi on the road to the side of bridge towards Mubarakpur, a truck bearing registration No.HR-37A-0462 came at a high speed from behind and struck against their motorcycle. The truck was being driven by respondent No.1 in a rash and negligent manner. They fell down and sustained serious injuries and died. They were taken to the Civil Hospital, Dera Bassi. A criminal case FIR No.52 dated 06.04.2012 under Section 279, 304-A IPC was registered against respondent No.1.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 29 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.

Sr.No.	Heads of compensation	Amount
1	Income (as per minimum wages)	Rs.5200/- X 12= 62,400/- per annum
2.	Future prospect	Rs.62,400/- + Rs.31,200/-= Rs.93,600/-
3.	Deduction 1/2th	Rs.93,600/- ----- Rs.46,800/-= Rs.46,800/-
4.	After applying multiplier (as of deceased 29 and as per Sarla Verma) dependency:	Rs.46,800 X 17= Rs.07,95,600/-
5.	Funeral Expenses	Rs.25,000/-
	Total	Rs.08,20,600/-

Learned counsel for the claimant-appellant contends that the compensation awarded by the Tribunal is on the lower side and deserves to

the 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 thers, 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.

RE-ASSESSED COMPENSATION

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

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 minimum wages)	Rs.5200/- X 12= 62,400/- per annum
2.	Future prospect 50%	Rs.62,400/- + Rs.31,200/-= Rs.93,600/-
3.	Deduction (Half)	Rs.93,600/- ----- Rs.46,800/-= Rs.46,800/-
4.	After applying multiplier	Rs.46,800 X 17= Rs.07,95,600/-

	(as of deceased 29 and as per Sarla Verma) dependency:	
5.	Funeral Expenses	Rs.25,000/-
6.	Loss of estate Rs.50,000/- each appellants	Rs.1,00,000/-
	Total	Rs.09,20,600/-
	Enhanced compensation	Rs.09,20,600/- ---- Rs.08,20,600/- = Rs.1,00,000/-

Resultantly, the enhanced amount of compensation of Rs.1,00,000/-/-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

11.07.2017
anil

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