

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

F.A.O No. 5357 of 2015

Date of decision:- 30.08.2017

Khem Chand and another

...Appellants

Versus

Pappu and ors.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Ms. Bhagyashri, Advocate for Ms. Deipa Singh, Advocate
for the appellants.

Mr. D.P.S. Malik, Advocate
for respondent No. 1 and 2.

RITU BAHRI J.

1. The present appeal has been preferred by the appellants (for short 'the appellants') against the award dated 16.02.2015 passed by the learned Motor Accident Claims Tribunal, Palwal (for short, 'the Tribunal') whereby learned Tribunal has granted the compensation to the appellants to the tune of Rs.2,15,000/-.

FACTS NOT IN DISPUTE

2. On 24.10.2013, deceased Brij Lal along with his claimant son Khem Chand was returning from his village Kanwarka from Abel Hospital, Palwal. When they were crossing NH-2, then suddenly a car bearing registration No. DL-3CBN-1399 came from behind and straightway hit the deceased. As a result thereof, the fell down on the road and sustained grievous and fatal injuries. He was shifted to Civil Hospital, Palwal where he was declared dead. Respondent No. 2 fled away from the spot leaving the offending vehicle. F.I.R No. 510 dated 24.10.2013 was registered under Sections 279/304-A IPC.

3. The learned tribunal held that the deceased was 69 years old . His income was taken at Rs.4500/- per month to be that of a casual workmen. The factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company.

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.4500/- per month
(ii)	1/3 rd of (ii) deducted as personal expenses of the deceased=	Rs.4500-Rs.1500=Rs.3000 per month
(iii)	Compensation after multiplier of 5 is applied	Rs.3000 X 12 X 5= Rs.1,80,000/-
(iv)	Loss of consortium	Rs.20,000/-
(v)	Funeral Expenses	Rs.10,000/-
(vi)	Loss of Estate	Rs.5,000/-
	Total compensation	Rs.2,15,000/-

4. The learned counsel for the claimant-appellant contends that the compensation awarded by the learned 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***" 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 v. Tamil Nadu State Transport Corporation, 2015(2) SCC (Civil) 193***. Learned counsel submits that the Tribunal has erred in law by taking the income of the deceased at Rs.4500/- per month only and further nothing has been awarded towards love and affection.

5. On the other hand, the learned counsel for the respondent has vehemently opposed the present appeal.

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

RE-ASSESSED COMPENSATION

7. It is not in dispute that the offending vehicle was fully insured with the Insurance company.
8. 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.4500/- per month
(ii)	1/3 rd of (ii) deducted as personal expenses of the deceased=	Rs.4500-Rs.1500=Rs.3000 per month
(iii)	Compensation after multiplier of 5 is applied	Rs.3000 X 12 X 5= Rs.1,80,000/-
(iv)	Loss of consortium to wife	Rs.1,00,000/-
(v)	Loss of love and affection to son	Rs.50,000/-
(vi)	Funeral charges	Rs.25,000/-
(vii)	Total Compensation awarded	Rs.3,55,000/-
	Enhanced amount of compensation	Rs.3,55,000-Rs.2,15,000= Rs.1,40,000/-

9. Resultantly, the enhanced amount of compensation of **Rs.1,40,000/-** 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.
10. With the aforesaid modification in the impugned award, the appeal is allowed to the above extent.

30.08.2017

G Arora

(**RITU BAHRI**)

JUDGE

Whether speaking/reasoned

Whether reportable

Yes

No