

In the High Court of Punjab and Haryana at Chandigarh

FAO No. 6091 of 2015

Date of Decision: 23.8.2017

Bant Kaur

.....Appellant

Versus

Shavam Lal and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. A.K.Sharma, Advocate
for the appellant.

Mr. Vinod Gupta, Advocate
for respondent No. 3.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimant-appellant (for short 'the appellant'), against award dated 09.01.2015, passed by the learned Motor Accident Claims Tribunal, Patiala (for short, 'the Tribunal') vide which compensation to the tune of Rs. 4,13,000/- was awarded to the claimant on account of death of Rafiq Khan who died in a road accident.

On 14.6.2013, at about 10.20 A.M., Rafiq Khan along with his wife Bant Kaur was going on motor cycle No. PB-13P-9605 from their residence at Moonak to village Mehlan Chowk. They were being followed by their son Chirag Din who was on another motor cycle. When they reached near Patran on Paul Choa, towards Sangrur side, a truck bearing registration No. RJ-06A-5557 came from Patran side in a rash and negligent manner. The truck driver could not control the truck due to high speed and struck behind the motor cycle of Rafiq Khan. Both Rafiq Khan and Bant

head, arms and other parts of the body whereas Bant Kaur received injuries on her backbone, arms, mouth and other parts of the body. Many people gathered at the spot. Taj Khan and Hussain Khan witnessed the accident. Both the injured were taken to Civil Hospital, Patran from where they were referred to Rajindra Hospital, Patiala. Rafiq Khan succumbed to his injuries in Rajindra Hospital, Patiala.

The finding of fact recorded with respect to the negligence is not in dispute between the parties. FIR No. 149 dated 14.6.2013 under Section 279, 304-A IPC was registered and challan under Section 173 Cr.P.C. was filed. Post-mortem report (Annexure P-1) was filed. In view of the post-mortem report (Annexure P-1), the compensation has been assessed as under:-

Sr. No.	Heads of compensation	Amount
1.	Income assessed	Rx. 4,000/- per month and Rs. 48,000/- per annum
2.	After deduction of 1/3 rd as personal expenses of the deceased.	Rs. 48,000 - Rs. 16,000 = Rs. 32,000/- per annum
3.	Compensation after multiplier of 9 is applied	Rs. 32,000/- x 9 = Rs. 2,88,000/-
4.	Loss of consortium	Rs. 1,00,000/-
5.	Funeral expenses	Rs. 25,000/-
6.	Total (iii) to (v)	Rs. 2,88,000 + 1,00,000 + 25,000 = 4,13,000/-.

After going through the award, the compensation has been rightly assessed taking the income of the deceased as Rs. 4,000/- per month as of a daily wager. However, in the present case, nothing has been awarded to the children of the deceased who are the proforma respondents i.e. respondents No. 4 to 7.

and others vs. Rajbir Singh and others, 2013 (9) SCC 54, the award is modified. The compensation of Rs. 50,000/- is awarded to each of the children as love and affection. The modified amount of Rs. 2,00,000/- be given to the claimants along with interest @ 6% 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***.

With the aforesaid modification in the impugned award, the appeal is allowed to the above extent.

(RITU BAHRI)
JUDGE

August 23, 2017
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No