

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.7941 of 2014 (O&M)

Date of Decision: 04.10.2017

Poonam and others

.....Appellants

Vs.

Lal Chand and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.B.K.Bagri, Advocate, for the appellants.

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

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 29.04.2014, passed by the learned Motor Accident Claims Tribunal, Rewari (for short, 'the Tribunal') vide which compensation to the tune of Rs.10,97,000/- was awarded to the claimants on account of death of Sombir.

FACTS NOT IN DISPUTE

On 13.11.2011, deceased Sombir alias Somveer was going from village Bucholi to Rewari by his car bearing No.DL3F-AF-0035 and at about 2 to 2:30 pm., when he reached in the area of village Jadra on Rewari-Kanina Road, offending vehicle bearing registration No.HR47B-4599 being driven by its driver i.e. respondent No.1 in a rash and negligent manner came from front side and gave a hit to the vehicle of the deceased and due to the impact, vehicle of the deceased struck with a road side standing tree and

criminal case vide FIR No.245 dated 13.11.2011 for the offence under Sections 279/304A IPC was registered at Police Station, Rampura on the statement of eye witness Ashok Kumar son of Giarsi Lal.

Learned counsel for the appellants/claimants has filed an application for additional evidence in which they have placed on record documents Annexure A-1 to A-6 and contends that deceased was graduate at the time of accident and in the year 2006, he was working in the Indian Army and getting a salary of Rs.5700/- per month but on account of family reasons, he had left the Army.

A reply has been filed to this application. After going through the contents of the application, the education of the deceased can be taken of a graduate as per certificate Annexure A-4, A-5 and A-6. However, he could not take any benefit of salary taking from the Army in the year 2006 because accident had taken place in the year 2011. Therefore, as per minimum wages of a skilled labourer, the income of the deceased had taken by the learned Tribunal as 6,000/- per month. Therefore, the application for additional evidence is dismissed accordingly.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 25 years old as per Matriculation Examination Certificate R-6. 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	Rs.6,000/- X 12= Rs.72,000/- per annum.
2.	Deduction 1/4th	Rs.72,000/- + Rs.18,000= Rs.54,000/-
3.	After applying multiplier	Rs.54,000/- X 18= Rs.09,72,000/-

	total loss of dependency	
4.	Loss of consortium	Rs.1,00,000/-
5.	Funeral Expenses	Rs.25,000/-
	Total assessed compenston	Rs.10,97,000/-

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 **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'**

Learned counsel submits that 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	Rs.6,000/- X 12= Rs.72,000/- per annum.
2.	Future Prospect 50%	Rs.72,000/- + Rs.36,000/-= Rs.1,08,000/-
3.	Deduction 1/4th	Rs.1,08,000/- - Rs.27,000= Rs.81,000/-
4.	After applying multiplier total loss of dependency	Rs.81,000/- X 18= Rs.14,58,000/-

5.	Loss of consortium	Rs.1,00,000/-
6.	Funeral Expenses	Rs.25,000/-
7.	Love and affection Rs.1,00,000/- to the minor child, and Rs.50,000/- to each of the parents;	Rs.2,00,000/-
	Total reassessed compensation	Rs.17,83,000/-
	Enhanced compensation	Rs.17,83,000/- Rs.10,97,000/-= Rs.6,86,000/-

Resultantly, the enhanced amount of compensation of Rs.6,86,000/- 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

04.10.2017
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No