

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

F.A.O No. 7945 of 2014

Date of decision:- 07.07.2017

Fajri and others

...Appellants

Versus

Vishnu and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Satish Chaudhary, Advocate
for the appellants

Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate
for respondent-Insurance Company.

RITU BAHRI J. (Oral)

1. The present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 05.03.2014 passed by the learned Motor Accident Claims Tribunal, Mewat (for short, 'the Tribunal') to the tune of Rs.9,56,600/-.

FACTS NOT IN DISPUTE

2. On 11.05.2013, deceased Raseed was going from village Jetalka to Luhinga Kalan after loading the tent house articles in his buggy (Bull Cart). When he reached near village Luhinga Kalan area, then a hydro crane driven by respondent No. 1 in a rash and negligent manner came from back side and struck against the bull cart, as a result of which, deceased Raseed sustained multiple and grievous injuries and died on the spot. F.I.R was also registered.

3. The learned tribunal held that the deceased was 33 years old and the claimants failed to produce on the file 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.

COMPENSATION ASSESSED BY MACT

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.6000/- per month
(ii)	1/5 th of (ii) deducted as personal expenses of the deceased=	Rs.6000-Rs.1200=Rs.4800 per month
(iii)	Compensation after multiplier of 10 is applied	Rs.4800 X 12 X 16= Rs.9,21,600/-
(iv)	Loss of consortium	Rs.10,000/-
(v)	Funeral expenses	Rs.25000/-
	Total compensation	Rs.9,56,600/-

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 loss of consortium awarded by the Tribunal is on the lower side and further nothing has been awarded towards love and affection to parents and children who were fully dependent upon the deceased.

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.5000/- per month
(ii)	50% of (i) above to be added as future prospects=	Rs.5000+Rs.2500=Rs.7500/- per month
(iii)	1/3 of (ii) deducted as personal expenses of the deceased=	Rs.7500-Rs.2500=Rs.5000 per month
(iv)	Compensation after multiplier of 16 is applied	Rs.5000 X 12 X 16= Rs.9,60,000/-
(v)	Loss of consortium	Rs.1 lac
(vi)	Loss of love and affection to seven children	Rs.3,50,000/- (Rs.50,000/ each)
(vii)	Loss of love and affection to mother	Rs.50,000/-
(viii)	Funeral charges	Rs.25,000/-
(ix)	Total Compensation awarded	14,85,000/-
(x)	Enhanced amount of compensation	Rs.14,85,000-Rs.9,56,600=Rs.5,28,400/-

9. Resultantly, the enhanced amount of compensation of **Rs.5,28,400/-** 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.

07.07.2017

(RITU BAHRI)
JUDGE

G Arora

Whether speaking/reasoned

Whether reportable

Yes

No

