

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

**FAO No.8502 of 2014 (O&M)
Date of decision: 28.08.2017**

Suman and another

....Appellants

Versus

Durga Parshad and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ashok Kaushik, Advocate,
for the appellants.

Ms. Vandana Malhotra, Advocate,
for respondent No.2-Insurance Company.

RITU BAHRI J. (Oral)

CM-23120-23121-CII-2014

In view of the averments mentioned in the applications, same are allowed and delay in filing and re-filing of the appeal is condoned.

FAO No.8502 of 2014

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Palwal (hereinafter referred to as 'the Tribunal') vide award dated 02.01.2014, on account of death of Deepak in a motor vehicular accident which took place on 01.08.2011. Appellant No. 1 is widow and appellant No.2 is mother of deceased Deepak.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 01.08.2011, Deepak (since deceased) along with Amrispuri son of Bhimpuri, residents of village

Ferojpur, Tehsil and District Palwal were going towards Ballabgarh on a motorcycle (CD Deluxe) bearing registration No. HR-30-E-8123. The motorcycle was being driven by Amrishpuri and Deepak was pillion rider. Vikram Singh, cousin of Deepak, was also following them on his own personal motorcycle. At about 12.40 P.M., when they reached Alahapur Chowk, near liquor company, then a tractor (Farmtrack) along with its trolley, being driven by Durga Parshad-respondent No.1 in a rash and negligent manner, came from Ballabgarh side and struck against the motorcycle of Deepak, as a result of which, Deepak died on the spot, whereas Amrish Puri received injuries. He was taken to the hospital. After the accident, driver of the offending tractor fled away. With regard to the accident, FIR No.279 dated 01.08.2011, under Sections 279/337/338/304-A IPC, Ex.P-2, was registered against respondent No.1. Consequently, the claimants-appellants filed claim Petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had been caused on account of rash and negligent driving of the offending tractor by its driver respondent No.1 and thus, returned finding on issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of Vikram, eye witness (PW-3) and Amrish Puri, injured eye witness (PW-6). Further, FIR Ex.P2 was also got recorded with regard to the accident in question. In the absence of any documentary proof, income of deceased (Deepak) was taken as Rs.4000/- per month, out of which, 50% amount was deducted towards his personal expenses. The dependency of claimants, thus, came to Rs.2000/- per month i.e. Rs.24,000/- per annum. As per postmortem report, the deceased was 19

years of age at the time of accident/death and the multiplier of 18 was applied. Thus, the claimants were found entitled to compensation of Rs.4,52,000/-. In addition to it, Rs.20,000/- were awarded towards funeral expenses and loss of estate. Hence, the claimants were found entitled to total compensation of Rs.4,72,000/- along with interest @ 6% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimants-appellants have preferred the present appeal.

REASSESSED COMPENSATION

I have heard learned counsel for the parties and perused the case file.

The fact of accident is admitted and proved. It stands established that the deceased has died as a result of the accident. In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed in view of the judgments of ***Asha Verman and others vs. Maharaj Singh and others***, 2015(2) RCR (Civil) 520, ***New India Assurance Company Limited vs Gopali and others***, 2012 (12) SCC 198, ***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, as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Annual Income (as per minimum wages prevalent at the time of accident)	Rs.4600/- Per month
(ii)	50% of (i) above to be added as future prospects	4600 + 2300 = Rs.6900/-

(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	6900 – 2300 = Rs.4600/-
(iv)	Compensation after multiplier of 18 is applied	Rs.4600/- x 12 x 18 = Rs.9,93,600/-
(v)	Loss of consortium for the widow (appellant No.1)	Rs.1,00,000/-
(vi)	Loss of love and affection to the mother (appellant No.2)	Rs.50,000/-
(vii)	Funeral expenses	Rs.25,000/-
(xiii)	TOTAL COMPENSATION AWARDED	Rs.11,68,600/-
(ix)	Enhanced amount of compensation	Rs.11,68,600 – 4,72,000 = Rs.6,96,600/-

The enhanced amount of compensation of **Rs.6,96,600/-** shall be payable within a period of two months 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 the 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.

Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

(RITU BAHRI)
JUDGE

28.08.2017
ajp

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