

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

**FAO No.6943 of 2015
Date of decision: 27.09.2017**

Nannu Ram @ Chuhru Ram and another
Versus

....Appellants

Mayank Goel and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Inderjit Singh, Advocate,
for the appellants.

Mr. Munfaid Khan, Advocate,
for respondent Nos. 1 and 2.

Mr. Rahul Makkar, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Jagadhri (hereinafter referred to as 'the Tribunal') vide award dated 08.05.2015, on account of death of Virender @ Binder in a motor vehicular accident which took place on 01.12.2013. Appellants are father and daughter of deceased-Virender alias Binder.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 01.12.2013, deceased-Virender alias Binder was going from village Ambli to his native village Arjun Majra on a motorcycle bearing registration No.HR-71-B-7681. His relative Rakesh Kumar was following him on a separate motorcycle. When they reached near Markanda bridge on Sadhaura-Naraingarh road, a car bearing registration No. HR-02-AB-4646, being driven by Mayank Goel-respondent No.1 in a rash and negligent manner, came from the side of

Sadhaura at a very high speed and struck against the motorcycle of Virender alias Binder, as a result of which, he fell down and sustained multiple grievous injuries. He was taken to Government Hospital, Naraingarh, from where, he was referred to PGI, Chandigarh. However, due to his serious condition, he was taken to Government Hospital, Panchkula, where the doctors declared him dead. With regard to the accident, FIR No.337 dated 01.12.2013 was registered at Police Station, Naraingarh, against respondent No.1 on the statement of Rakesh Kumar, eye witness. Consequently, the claimants i.e. appellants filed a 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 taken place due to rash and negligent driving of the offending car by its driver-respondent No1. Accordingly, issue No.1 was decided in favour of the claimants. This finding was rightly given on the basis of deposition of Rakesh Kumar (PW-1), who was eye witnesses of the accident. In the absence of any documentary evidence, income of the deceased was taken to Rs.5342/- per month, which was the minimum wages payable to an unskilled worker in the year 2013, out of which, 1/3rd amount was deducted towards personal expenses of deceased. The dependency of claimants, thus, came to Rs.3562/- per month i.e. Rs.42,744/- per annum. Deceased was 24 years of age and was bachelor at the time of accident/death. Accordingly, keeping in view of the age of his father, who was 65 years old, multiplier of 7 was applied. Thus, appellants-claimants were found entitled to compensation of Rs.2,99,208/- (42,744 x 7). Apart from this, Rs.25,000/- were awarded towards love and affection and Rs.15,000/- towards funeral expenses. Ultimately, claim petition was

allowed and claimants Nos.1 and 3 were held entitled to a total compensation of Rs.3,39,208/- along with interest @ 7% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-appellants have preferred the present appeal.

REASSESSED COMPENSATION

The appellants have assailed the impugned Award on the ground that the Tribunal has wrongly assessed the income of deceased as Rs.5342/- per month, which was on the lower side. Learned counsel for the appellants has argued that in the present case, a wrong multiplier has been applied keeping in view the age of father of deceased, whereas the multiplier should have been applied keeping in view the age of the deceased.

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 view of the judgment passed by Hon'ble the Supreme Court in **Reshma Kumari and others Vs. Madan Mohan and another**, 2013 (2) RCR (Civil) 660, multiplier, in the present case, should have been taken as per the age of deceased-Virender alias Binder. Accordingly, 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 passed in **Reshma Kumari's** case (supra), **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)	Income (as per minimum wages)	Rs.6000/- per month.
(ii)	50% of (i) above to be added as future prospects	6000 + 3000 = Rs.9000/-
(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	9000 – 3000 = Rs.6000/-
(iv)	Compensation after multiplier of 18 is applied	Rs.6000 x 12 x 18 = Rs.12,96,000/-
(v)	Loss of love and affection for the appellants (father and sister respectively)	Rs.1,00,000/- (Rs.50,000/- each)
(vi)	Funeral expenses	Rs.25,000/-
(vii)	TOTAL COMPENSATION AWARDED	Rs.14,21,000/-
(viii)	Enhanced amount of compensation	Rs.14,21,000 – 3,39,208 = Rs.10,81,792/-

The enhanced amount of compensation of **Rs.10,81,792/-** 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

27.09.2017
ajp

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