

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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FAO No. 6944 of 2015 (O&M)
Date of decision : 18-09-2017

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Amarjeet Kaur and another

.....Appellants

Versus

Salinder Singh and others

.....Respondents

* * * * *

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Ashwani Arora, Advocate for the appellants.

Mr. Ravinder Arora, Advocate for respondent no.3.

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1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

RITU BAHRI, J

This appeal has been filed by the claimants-appellants
seeking enhancement of compensation awarded by Motor Accident

Claims Tribunal, Ludhiana (hereinafter referred to as 'the Tribunal') vide award dated 03.8.2015 in **MACT Case No. 39 dt. 10.12.2013** on account of death of Rajvir Kaur in a vehicular accident, daughter of claimants-appellants.

FACTS NOT IN DISPUTE

The brief facts of the case are that on 30.3.2013, at about 12 hours, deceased Rajvir Kaur was going along with her brother Gurvir Singh aged about 6 years from Village Kaunke Kalan to get admission for Gurvir Singh in Academy GHG, Kothe Bhagu, Jagraon while sitting on the pillion seat of a scooter, which was being driven by their father Jagseer Singh. When they were on the Phirni of Gurudwara Nanaksar, Kaunke Road, Agwar Lopo, Distt. Jagroan, a truck bearing registration No. PB-04M-9700 driven by Salinder Singh speedily and in a rash and negligent manner came from the side of Moga Ludhiana, G.T Road from opposite direction and wrong side of the road and struck against their scooter. As a result of this accident, they all fell down on the road and were taken to Civil Hospital, Jagraon, from where they all were referred to DMC, Ludhiana, where Rajvir Kaur died due to the injuries, she sustained in this accident. In this regard, a criminal case bearing FIR No. 55 dated 30.3.2013 was registered under Sections 279/337/338/304-A/427 IPC at Police Station City Jagraon, Distt. Ludhiana against respondent no.1.

COMPENSATION ASSESSED BY THE MACT

On account of death of Rajvir Kaur, claimants filed claim petition under Section 166 of the Motor Vehicles Act, 1988, which

was accepted by the Tribunal. The Tribunal gave a finding that the accident was caused due to the rash and negligent driving of respondent no.1 and a sum of **Rs. 4,35,000/-** was awarded as compensation on account of death of Rajvir Kaur. The monthly income of the deceased was taken to be Rs. 5,000/- per month. An amount of Rs.2500/- per month (being 50% of monthly income) was deducted towards her personal living expenses. In this way, annual dependency of the claimants was assessed as Rs.30,000 (Rs.2500/- x 12). For applying multiplier, the age of parents of the deceased was considered and a multiplier of 14 was applied. Thus, the claimants were found entitled to a compensation of **Rs.4,20,000/-**. In addition to it, claimants were also held entitled to Rs.5000/- towards funeral expenses and Rs.10,000/- under the head of loss of estate and love and affection. Thus the total compensation payable worked out to be **Rs.4,35,000/-**.

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. The deceased died as a result of the accident.

In another case, National Insurance Company Limited had come up in appeal bearing '**FAO No. 1502 of 2015**' titled, '**National Insurance Company Limited vs. Pushpa Singh Chauhan**

and others' against the award of the Motor Accident Claims Tribunal, SAS Nagar, Mohali. Vide its award dated 20.11.2014, the Tribunal had awarded the compensation of Rs.16,70,000/- along with interest @ 9% per annum from the date of filing the claim petition till its realization to the claimants. In this case Nitesh Kumar Singh, a student of B. Tech (Mechanical) studying in Chander Mohan Jha University Shillong (Meghalaya) died as a result of the accident which was caused by Devinder Singh Pathani while driving a car rashly and negligently. While deciding the claim petition filed by his parents, The Tribunal assessed the income of the deceased at Rs.10,000/- per month, out of which 50% were deducted towards personal expenses and the annual income of the deceased was assessed as Rs.60,000/-. Since the deceased was 23 years of age, therefore, multiplier of 18 as per his age was applied and compensation was calculated at Rs.10,80,000/-. 50% income was added on account of future prospects and Rs.25,000/- were allowed on account of funeral expenses and Rs.25,000/- was awarded as loss to estate. In this manner, total compensation payable came to Rs.16,70,000/-. The award of the Tribunal was upheld and appeal against the order of the Tribunal was dismissed by this Court. The Special Leave Petition against the order of this Court was also dismissed by Hon'ble the Supreme Court of India.

In the present case also as the deceased was a student of Hotel Management, his notional income is taken as Rs.10,000 per month and the compensation is hereby reassessed in view of the

judgments of **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:

<i>Sr. No.</i>	<i>HEADS</i>	<i>CALCULATION</i>
(I)	Notional Income	Rs.10,000/- per month
(ii)	50% of (i) to be deducted on account of personal expenses Rs. 10,000-5000=Rs.5000/-	Rs.5000/- per month
(iii)	50% of (ii) to be added towards future prospects	(Rs.5000/-)+(Rs.2500/-) =Rs. 7500/- per month
(iv)	Compensation after multiplier of 18 is applied	(Rs.7500x12x18) =Rs.16,20,000/-
(vii)	Loss of love and affection to both the parents (Rs.50,000/- to each parent)	Rs.1,00,000 /-
(viii)	Funeral expenses	Rs.25,000 /-
	TOTAL COMPENSATION AWARDED	Rs. 17,45,000/-
	Enhanced amount of compensation	(Rs.17,45,000/-)- (Rs.4,35,000/-)= Rs.13,10,000/-

The enhanced amount of compensation of **Rs.13,10,000/-** 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.

18-09-2017
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(RITU BAHRI)
JUDGE