

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.7307 of 2015
Date of Decision: 03.10.2017

Seema Devi and Anr.

.....Appellants

Vs.

Ishmjot Singh and ors.

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:-

Mr.Sandeep Arora, Advocate, for the appellants.

Mr.Sanjeev Goyal, Advocate, for
respondent No.4-Bharti Axa Gen. Ins.Co.Ltd.

Mr.Vinod Gupta, Advocate, for respondent No.6-
New India Assurance Company Ltd.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 06.05.2013, passed by the learned Motor Accident Claims Tribunal, Gurdaspur (for short, 'the Tribunal') vide which compensation to the tune of Rs.6,48,000/- was awarded to the claimants on account of death of their son Mukesh Salaria.

FACTS NOT IN DISPUTE

On 11.12.2010, deceased Mukesh Salaria, was going towards Dhariwal alongwith Tehal Singh son of Shaingara Singh and Rakesh Rana s/o Joginder Singh for their company's work. The deceased was driving the Bajaj Motorcycle No.PB-58-E-6378 at moderate speed on his left side. At about 4:30 P.M., they were about to reach Adda Japuwal when a truck

driven rashly and negligently and at a high speed struck against the motorcycle of the deceased, as a result of which all the three of them fell down on the road and the deceased was run over by the truck bearing No.PB-02-N-9657 being driven by Jagtar Singh and the deceased died on the spot. Tehal Singh and Rakesh Rana also received multiple injuries. The accident had taken place on account of rash and negligent driving of the truck bearing No.PB-02-N-9657 driven by Jagtar Singh and that the offending bus being driven by Ravinder Singh. In this regard, FIR No.191 under Sections 304-A, 279, 337, 338, 427 IPC etc., was registered against Ravinder Singh and Jagtar Singh on the same day at the instance of Rakesh Rana.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 21 years old and the claimants failed to produce on the record any documentary evidence regarding income of the deceased. His income has been taken as Rs.6,000/- keeping in view that he had passed ITI diploma Ex.A4, Ex.A5 is the certificate issued by the principal of the ITI, Pathankot.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/- p.m.)	Rs.72,000/- per annum
2.	50% deduction	Rs.72000/- - Rs.36,000= Rs.36,000/-
3.	Annual loss of dependency after applying multiplier	Rs.36,000/- X 18=Rs.6,48,000/-
	Total	Rs.6,48,000/-

Learned counsel for the claimant-appellant contends that the compensation awarded by the Tribunal is on the lower side and deserves to

the 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.** 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/- p.m.)	Rs.72,000/- per annum
2.	Future Prospect 50%	Rs.72,000/- + Rs.36,000/-= Rs.1,08,000/-
2.	50% deduction	Rs.1,08,000 - Rs.54,000= Rs.54,000/-
3.	Annual loss of dependency after applying multiplier	Rs.54,000/- X 18=Rs.9,72,000/-
4.	Love and affection Rs.50,000/- each of parents	Rs.1,00,000/-
5.	Funeral Expenses	Rs.25,000/-
	Reassessed compensation	Rs.10,97,000/-
	Enhanced compensation	Rs.10,97,000/- ---- Rs.6,48,000/- = Rs.4,49,000/-

Resultantly, the enhanced amount of compensation of

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

03.10.2017

anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No