

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

**FAO No.9158 of 2014 (O&M)
Date of decision: 08.09.2017**

Sita Rani and others

....Appellants

Versus

Anjana and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Vikram Bali, Advocate,
for the appellants.

Mr. Ishan Cooner, Advocate,
for respondent Nos.1 & 2.

Mr. Deepak Suri, Advocate,
or 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, Panchkula (hereinafter referred to as 'the Tribunal') vide award dated 03.03.2014, on account of death of Sumer Chand Gupta in a motor vehicular accident which took place on 14.09.2011. Appellant No. 1 is widow and appellant Nos.2 & 3 are children of deceased Sumer Chand Gupta.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 14.09.2011, Sumer Chand Gupta (since deceased) was going from the side of Panchkula to his house on a scooter bearing registration No. HR-03-B-4797. At about 7.00 P.M.,

when he reached near the chowk of Sector 23/24, Panchkula, a car bearing

registration No. CH-03-Q-8105, being driven by respondent No.1-Anjana in a rash and negligent manner, came at a very high speed and struck against the scooter of Sumer Chand Gupta, as a result of which, he received multiple injuries and died at the spot. The accident was witnessed by sons of the deceased, who were passing through the spot of accident at the relevant time in their car. With regard to the incident, FIR No.192 dated 14.09.2011, under Sections 279/304-A IPC was registered at Police Station, Chandimandir, on a statement made by Jainender Gupta. Consequently, the claimants-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 been caused on account of rash and negligent driving of offending car by Anjana-respondent No.1, as a result of which Sumer Chand Gupta has died and thus, returned the finding on issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of Jatinder Gupta (PW-1), who was eye witnesses of the accident. Copies of FIR and challan have been proved as Ex.P6 Ex.P3. As per income tax returns of the deceased for the year 2010-2011, Mark A, his annual income was Rs.2,46,690/-, which includes annual rental income to the tune of Rs.64,680/- and interest from saving schemes to the tune of Rs.42,539/-. The rental income and interest on savings could not be counted as regular/permanent income. Therefore, after deducting the same, income of the deceased was assessed as Rs.1,39,468/- per annum. The deceased as aged about 70 years at the time of death/accident and the multiplier of 5 was applied, which came to be Rs.6,97,340/- (1,39,468 x 5). Out of this, 1/3rd amount was deducted towards personal expenses of the deceased. Thus, the

claimants were found entitled to compensation of Rs.4,64,893/- (6,97,340 - 2,32,447/-) In addition to it, Rs.25,000/- were awarded towards funeral expenses and Rs.25,000/- as loss of consortium to widow-Sita Rani. Hence, the claimants were found entitled to total compensation of Rs.5,14,893/- 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)	Income	Rs.1,39,468/- per annum
(ii)	1/3 rd of (i) above is deducted as personal expenses of the deceased	1,39,468 – 46,489 = Rs.92,979/-
(iii)	Compensation after multiplier of 5 is applied	Rs.92,979/- x 5 = Rs.4,64,895/-
(iv)	Loss of consortium for the widow (appellant No.1)	Rs.1,00,000/-

(v)	Loss of love and affection for the children (appellant Nos.2 and 3)	Rs.1,00,000/- (Rs.50,000/- each)
(vi)	Funeral expenses	Rs.25,000/-
(vii)	TOTAL COMPENSATION AWARDED	Rs.6,89,895/-
(viii)	Enhanced amount of compensation	Rs.6,89,895 – 5,14,893 = Rs.1,75,002/-

The enhanced amount of compensation of **Rs.1,75,002/-** 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

08.09.2017
ajp

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