

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

FAO-9743-2014

Date of decision:- 21.09.2017

Niranjan Dass

....Appellant

Versus

Shamin Ahmed and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Bahadur Singh, Advocate
for the appellant.

Ms. Indu Bala, Advocate
for respondent No.1.

Mr. Naveen Chopra, Advocate
for respondent No.2. .

RITU BAHRI J. (Oral)

Present appeal has been preferred by the claimant-appellant (for short 'the appellant'), against award dated 11.07.2014, passed by the learned Motor Accident Claims Tribunal, Panchkula (for short, 'the Tribunal') to the tune of ₹3,62,600/-.

FACTS NOT IN DISPUTE

On 21.07.2013, Banto Devi (since deceased) was going from her house situated in village Husaini, Tehsil Naraingar, District Ambala, to the matrimonial home of her daughter at Zirakpur, as a pillion rider on Hero Honda CD Deluxe motor-cycle bearing registration No.HR-04-B-9307,

which was being driven by respondent No.1-Shamin Ahmed. At at about 9.00 AM when they reached near bypass Barwala, on Naraingarh to Panchkula road, in the meantime, all of a sudden Banto Devi had fallen down from the said motor-cycle and her head struck on the metalled portion of the road. As a result, Banto Devi suffered multiple and grievous injuries including server head injury. She lost her consciousness on the spot on account of injuries suffered by her in this road side accident. Respondent No.1 took injured Banto Devi to PHC, Barwala from the spot, after arranging some vehicle. After giving first aid at Barwala, Banto Devi was referred to GMCH, Sector 32, Chandigarh and from there, she was further referred to PGI, Chandigarh where during the course of her treatment, she died in PGI, Chandigarh on 22.07.2013 on account of injuries suffered by her in this road side accident.

Consequently, the claimant-appellant had filed a claim petition before the Tribunal.

Before the Tribunal, on the basis of the evidence led by the parties, the Tribunal has come to a conclusion that the accident in question was occurred due to the rash and negligent driving by respondent No.1. The Tribunal took the income of the deceased at ₹3300/- per month. Thereafter, a cut of 1/3rd and multiplier of '9' was applied. The total loss of dependency to the family comes to ₹26,400/-. Further the claimant was awarded ₹1,00,000/- towards the loss of consortium and ₹25,000/- towards funeral expenses. Hence, the claimant-appellant was found entitled to total compensation of ₹3,62,600/- along with interest at the rate of 7.5% per annum from the date of filing of the petition till the date of award.

Learned counsel for the claimant-appellant contends that the compensation awarded by the learned Tribunal is on the lower side and deserves to be enhanced, in view of the judgment "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', 'Asha Verman and others Vs. Maharaj Singh and others, 2015(2) RCR (Civil) 520 and 'Kalpanaraj and others Vs. Tamil Nadu State Transport Corporation, 2015(2) SCC (Civil) 193.

I have heard learned counsel for the parties and perused the record.

Reference, at this stage, can be made to a judgment passed by Hon'ble the Supreme Court in a case of New India Assurance Co. Ltd Vs. Gopali and others, 2012 (12) SCC 198 whereby Hon'ble the Supreme Court in an old case of 1992 had taken the monthly income of deceased at ₹3000/- and cut of 1/10th was imposed, keeping in view the fact that a person having a minimum income of ₹3000/- could not think of spending 1/3rd of his income on himself.

RE-ASSESSED COMPENSATION

Keeping in view the above mentioned judgments, the compensation has to be re-assessed as follows :-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	₹4,800/- per month
(ii)	50% future prospects	₹4,800 + ₹2,400 = ₹7,200/- per month
(iii)	1/3 rd Less on account of dependency	₹7,200 - ₹2,400 = ₹4,800 per month

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(iv)	Compensation after multiplier of '9'	₹4,800 x 12 x 9= ₹5,18,400/-
(v)	Loss of consortium	₹1,00,000/-
(vi)	Funeral charges	₹25,000/-
	Total Compensation awarded	₹6,43,400/-
	Enhanced amount of compensation	₹6,43,400 - ₹3,62,600 = ₹2,80,800/-

Resultantly, the enhanced amount of compensation of ₹2,80,800/- shall be payable within a period of forty five days 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 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.

September 21, 2017
naresh.k

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No