

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.998 of 2015

Date of Decision: 11.07.2017

Pinki and Others

.....Appellants

Vs.

Jagdish @ J.P. And anr.

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Gopal Sharma, Advocate, for the appellants.

Mr.Sanjeev Goyal, Advocate,
for respondent No.2-Shriram Gen. Ins.Co. Ltd.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 03.07.2014, passed by the learned Motor Accident Claims Tribunal, Rewari (for short, 'the Tribunal') vide which compensation to the tune of Rs.09,15,706/- was awarded to the claimants on account of death of Vishal.

FACTS NOT IN DISPUTE

On 07.07.2012, Vishal-since deceased, was coming from Bhiwadi to Dharuhera on foot after doing his duty along with his colleague Nitin Chauhan. When they reached near Dharuhera road from where a Katcha track going to Maheshwari village and the other going to village Ashiana, the offending vehicle came from Bhiwadi side being driven by respondent No.1 in rash and negligent matter and at very high speed and struck Vishal from behind. Due to this accident, Vishal fell down on the road and the

offending vehicle also fell down and the registration number of the offending vehicle also fell down and the same was noted down by his colleague Nitin Chauhan and the driver told his name as Jagdish Yadav @ J.P. Vishal was taken to hospital in Rewari where he was treated but during his treatment Vishal died on 08.07.2012. A formal FIR No.268 dated 08.07.2012 has been registered for the offence under Section 279 and 304-A of IPC at Police Station Dharuhera against respondent No.1.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 24 years old and the claimants failed to produce on the record any documentary evidence regarding income of the deceased. 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	Salary per month (as per salary certificate Ex.PW3/B) Gross salary	Rs.5288/-
2.	Loss of dependency (1/3rd)	Rs.5288 --- Rs.1762= Rs.3526/-
3.	Annual loss of dependency	Rs.3526/- X 12= Rs.42,312/-
4.	After applying multiplier	Rs.42312 X 18= Rs.7,61,616/-
5.	Medical expenses	Rs.24,090/-
6.	Funeral Expenses	Rs.25,000/-
	Loss of estate	Rs.5,000/-
	Consortium	Rs.1,00,000/-
	Total	Rs.09,15,706/- Rs.4,00,000/- to appellant No1. Rs.05, 15,706/- to appellant No.2 & 3.

Learned counsel for the claimant-appellant contends that the compensation awarded by the 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; '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 v. Tamil Nadu State Transport Corporation, 2015(2) SCC (Civil) 193.** Learned counsel submits that the loss of consortium awarded by the Tribunal is on the lower side and further 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	Salary per month (as per salary certificate Ex.PW3/B) Gross salary	Rs.5288/-
2.	Future prospect (50%)	Rs.5288/- + Rs.2644= Rs.7932/-
3.	Loss of dependency	Rs.7932 --- Rs.2644= Rs.5288/-

	(1/3rd)	
4.	Annual loss of dependency	Rs.5288/- X 12= Rs.63,456/-
5.	After applying multiplier	Rs.63,456 X 18= Rs.11,42,208/-
6.	Medical expenses	Rs.24,090/-
7.	Funeral Expenses	Rs.25,000/-
8.	Loss of estate	Rs.1,00,000/-
9.	Consortium	Rs.1,00,000/-
	Total	Rs.13,91,298/-
	Enhanced compensation	Rs.13,91,298- ----09,15,706/-= Rs.4,75,592/-

Resultantly, the enhanced amount of compensation of Rs.4,75,592/-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.

(RITU BAHRI)
JUDGE

11.07.2017
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No