

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

**FAO No.4220 of 2014 (O&M)
Date of decision: 12.01.2018**

Ramesh Kumar and another

....Appellants

Versus

Mehboob and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Ms. Bhavna Grewal, Advocate,
Mr. Sandeep Kumar Yadav, Advocate,
for the appellant.

Mr. Munish Gupta, Advocate,
for respondent No.1.

Mr. Rajneesh Malhotra, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as 'the Tribunal') vide award dated 13.02.2014, on account of death of Vandana in a motor vehicular accident which took place on 21.06.2013. Claimant-appellants are parents of deceased Vandana.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 21.06.2013, claimant-appellant No.2 (Sarita) along with her daughter Vandana (since deceased) and Lokesh was going from village Khundroth to Buhana on a motorcycle

by Ajit Singh son of Vijay Singh. At about 7/8.00 P.M., when they reached near Santosh Motors, Singhana Road, Narnaul, a truck bearing registration No. RJ-19-GB-8690 being driven by Mahboob-respondent No.1 in a rash and negligent manner, came and hit the motorcycle from behind, as a result of which, all the occupants of motorcycle fell down and sustained multiple & grievous injuries. However, Vandana succumbed to the injuries received by her in the accident. With regard to the accident, FIR No.304 dated 21.06.2013, under Sections 279/337/304-A IPC was registered at Police Station, City Narnaul. Consequently, the claimant-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 truck by its driver-respondent No.1 and thus, returned the finding on issue no.1 in favour of the claimant. This finding was rightly given on the basis of deposition of claimant No.2-Sarita Devi, who was eye witness of the accident and the fact that FIR Ex.P47 was registered against respondent No.1. Further, the claimants had proved copy of report under Section 173 Cr.P.C. as Ex.P48 and charge sheet as Ex.P49.

Deceased-Vandana was aged about 6½ years at the time of death/accident. Therefore, her notional income was assessed as Rs.15,000/- per annum as per Second Schedule of the Act. After applying the multiplier of 15, compensation came to be Rs.2,25,000/- (15,000 x 15). In addition to this, a sum of Rs.10,000/- was awarded on account of loss of love and affection and Rs.10,000/- towards funeral expenses. Ultimately, the claim petition was accepted by the Tribunal and the claimants were found entitled

to a total compensation of Rs.2,45,000/- along with interest at the rate of 7.5% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-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. Keeping in view the peculiar circumstances of the case, the compensation is required to be enhanced in view of the judgments passed by Hon'ble the Supreme Court in **Kishan Gopal and another Vs. Lala and others**, 2013 (4) RCR (Civil) 276, **Sarla Verma and others Vs. Delhi Transport Corporation and another**, (2009) 6 SCC 121 and **National Insurance Company Limited Vs. Pranay Sethi and others**, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017). Hence, the compensation is hereby re-assessed as under:-

Sr. No.	HEADS	AMOUNT (In Rs.)
(i)	Notional income of deceased	Rs.40,000/-
(ii)	Compensation after multiplier of 15 is applied	40,000 x 15 = Rs.6,00,000/-
(iii)	Funeral expenses	Rs.15,000/-
(iv)	TOTAL COMPENSATION AWARDED	Rs.6,15,000/-
(v)	Enhanced amount of compensation	Rs.6,15,000 – 2,45,000 = Rs.3,70,000/-

The enhanced amount of compensation of **Rs.3,70,000/-** 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.

(RITU BAHRI)
JUDGE

12.01.2018
ajp

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