

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-362-2016

Date of decision: 14.05.2018

Paramjit Kaur and others

...Appellants

V/s.

Amir Singh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Sanjeev Goyal, Advocate for the appellants.

Mr. B.S. Taunque, Advocate for
respondent No. 3-insurance co.

RITU BAHRI, J. (Oral).

The claimants have come up in appeal against the award dated 04.08.2015 passed by Motor Accident Claims Tribunal (for short 'the Tribunal') whereby they have been awarded a compensation of Rs.10,30,880/- on account of the death of Dalbara Singh who was a Nambardar of village Fatehgarh and died in a road accident which took place on 30.08.2013.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 30.08.2013, Dalbara Singh was going to Sunam via Gobindgarh Jejian and Chhajli on his motor-cycle No. PB-12G-0325 at a normal speed. When he reached near drain the area of village Gobindgarh Jejian, a tempo bearing No. PB-10DA-2159 driven by respondent No. 1 rashly and negligently struck with his motor-cycle

which resulted into serious injuries and he died at the spot. With regard to the alleged accident, his brother Sardara Singh (an eye witness of the said accident) registered an FIR No. 108 dated 30.08.2013 (Ex.C2) under Sections 279, 304-A and 427 IPC at Police Station Chhajli against respondent No. 1-Amir Singh. Consequently, the claimant-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

The parties are not in dispute with regard to finding on issue No. 1 that the accident took place on account of rash and negligent driving by respondent No. 1-Amir Singh. This finding has been rightly given keeping in view that the FIR No. 108 dated 30.08.2013 (Ex.C2) under Sections 279, 304-A and 427 IPC at Police Station Chhajli was registered against respondent No. 1-Amir Singh and Ex.C10 was a copy of charge-sheet. Charges for the above said offences had been framed against respondent-Amir Singh by the Court of learned JMIC, Sunam and the order dated 07.09.2013 was passed by the Court of learned SDM, Sunam, regarding release of the offending vehicle on superdari (Ex. C11).

The deceased was 38 years of age at the time of accident and was married. The Tribunal has assessed the compensation as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.6647-75 round about Rs.6650+ Rs.500 as salary being Nambardar=7150 p.m.
(ii)	1/3 rd deduction for personal expenses	7150-2384-4766
(iii)	Compensation after multiplier of 15 applied	4766 X 12 X 15=857880/-
(iv)	Loss of consortium	Rs.1,00,000/-
(v)	Funeral expenses	Rs.25,000/-
(vi)	Loss of love and affection	50,000/-
(vii)	TOTAL COMPENSATION AWARDED	Rs. 10,30,880/-

Hence, the claimant was found entitled to total compensation of Rs.10,30,880/- along with interest @9% 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

The fact of accident is admitted and proved. Finding of negligence has rightly been given by the Tribunal and it does not require any interference on that account. In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed as under keeping in view the minimum wages prevalent in the State of Punjab in the year 2013:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.8000/- p.m.+Rs. 500 as salary being Nambardar=Rs.8500 p.m.
(ii)	40% future prospects	8500+3400=11900
(ii)	1/3 rd deduction for personal expenses	11900-3967=7933
	Compensation after multiplier of 18 applied	7933 X 12 X 15=14,27,940
(iii)	Conventional head	Rs. 70,000
(vi)	TOTAL COMPENSATION AWARDED	Rs. 14,97,940/-
(vii)	ENHANCED AMOUNT OF COMPENSATION	Rs.14,97,940-10,30,880= Rs.4,67,060/-

The enhanced amount of compensation of **Rs.4,67,060/-** 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 @ 7.5% 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 allowed.

(RITU BAHRI)
JUDGE

May 14, 2018
Divyanshi

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