

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

F.A.O No. 4107 of 2016

Date of decision:- 17.01.2018

Sapna wd/o Sh. Kuldeep Singh @ Kuldeep Kumar and others

...Appellants

Versus

Jagjit Singh @ Jaggeet Singh @ Jagdish Singh and others

...Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Jagram Singh, Advocate,
for the appellants.

Mr. Pankaj Mehta, Advocate,
for respondent No. 3.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Panchkula (hereinafter referred to as 'the Tribunal') vide award dated 25.02.2016, on account of death of Kuldeep Singh @ Kuldeep Kumar in a motor vehicular accident which took place on 26.08.2014.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 26.08.2014 Kuldeep Singh @ Kuldeep Kumar @ chhota (since deceased) was going from village Mullana, District Ambala to village Barwala, District Panchkula, on his motorcycle bearing registration No. HR 02-T-6340, being driving by him on correct left hand side of the road at moderate speed and his brother-in-law namely Rahul was pillion rider on the motorcycle. At about 01.00 PM when they reached near link road of village Golpura, district Panchkula on Shahzadpur-barwala road, in the meantime a truck bearing registration No.

HR 37D-5035 (offending truck) came from behind and hit against the motorcycle. The offending truck was being driven by the respondent No 1 in rash and negligent manner and at a high speed. Due to the impact of accident, Kuldeep Singh (deceased) suffered grievous injuries. After the accident, the deceased was taken to General Hospital, Sector 6 Panchkula, where he was declared dead. In this regard FIR (Ex.P1) No. 126 dated 27.08.2014 under Sections 279 and 304-A IPC was registered against respondent No. 1 at Police Station Raipur Rani, Panchkula.

Consequently, 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 negligent driving of offending vehicle by respondent No.1. The deceased was 35 years of age at the time of accident/death as per Postmortem report Ex. P2 and was earning Rs.18,000/- per month.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimants as well as an eye witness to the accident in question stepped into the witness box as PW 2 and proved that accident occurred due to rash and negligent driving by respondent no.1. No proof of income of deceased has been found. Kuldeep Singh (since deceased) has four dependent including wife, one son and two daughters. As per the law laid down in ***Sarla Verma and others vs. Delhi Transport Corporation and another***, 2009 (3) RCR (Civil) Page 77, income of deceased assessed by the Tribunal has Rs.8,470/- as per letter No. 535-635 dated 05.06.2014 issued by the Deputy Commissioner, Panchkula,

plus 30% future prospects which comes to Rs.11,011/- per month. After deducting one-fourth amount towards personal expenses, the amount comes to Rs. 8,259 /- and annual dependancy comes to Rs.99,108/-. Since the deceased was 35 years of age at the time of his death multiplier of 16 would be applicable as per the law laid down in case Sarla (supra). After applying multiplier compensation amount comes to Rs.15,85,728/-. In addition to this amount, Rs. 1,00,000/- awarded towards conventional heads i.e. Loss of love and affections, funeral expenses and last rites etc. Hence, the Tribunal awarded an amount of Rs. 16,85,728/- to the claimants.

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 that all the amount of compensation has been released to the claimants so in the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed only in the head of future prospects in view of the judgments passed by Hon'ble the Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017), where it has been held that future prospects should be 40% and Sarla Verma and others vs. Delhi Transport Corporation and another***, 2009 (3) RCR (Civil) Page 77, as under:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs. 8,470/-per month
(ii)	40% added in (i) towards future prospects	Rs.8,470 + 3388=Rs.11,858 /-
(iii)	1/4 th deducting from (ii) towards personal expenses	Rs. 11,858-Rs. 2965 = Rs. 8893/-
(iv)	Multiplier applied	Rs.8893X12X16= 1,707,456/-
(v)	Compensation towards conventional heard	Rs. 100,000/-(compensation awarded in this head will remain same as the amount already released to claimant(s))
	Total Compensation awarded (iv)+(v)	Rs. 1,707,456 + Rs. 100,000 =Rs. 1,807,456/-
	Enhanced amount of compensation	Rs.1,807,456 -1,685,728=Rs.121,728/-

The enhanced amount of compensation of **Rs.121,728** /- 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.

17.01.2018

Riya Grover

(RITU BAHRI)
JUDGE

Whether speaking/reasoned

Whether reportable

Yes

No