

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

1. FAO No. 7551 of 2014

Ram Wadhwa ...Appellant

Versus

Manoj Kumar and others ...Respondents

2. FAO No. 7615 of 2014

Sonia Wadhwa and anr. ...Appellants

Versus

Manoj Kumar and others ...Respondents

Date of decision:- 22.01.2018

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Tarun Dhingra, Advocate, for the appellants

Mr. Suvir Dewan, Advocate
for respondent No. 3-Insurance Company

RITU BAHRI J. (Oral)

C.M. No. 20205-CII-2014 in FAO No. 7551-2014

For the reasons mentioned in the application, delay of 161 days in filing of the appeal is hereby condoned.

The application stands disposed of accordingly.

C.M. No. 20315-CII-2014 in FAO No. 7615-2014

For the reasons mentioned in the application, delay of 161 days in filing of the appeal is hereby condoned.

The application stands disposed of accordingly.

F.A.O No. 7551 and 7651-2014

1. The above said two appeals, as noticed above, are being disposed of by this common judgment, having arisen out of the impugned award dated 16.11.2013 passed by the learned Motor Accident Claims Tribunal, Kurukshetra (for short the Tribunal) in a claim petitions filed under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

2. In the above said two appeals, the claimants are seeking enhancement of the compensation amount awarded by the Tribunal.

Facts not in dispute

3. On 03.11.2012, claimant-Ram Wadhwa and Kartik Wadhwa (since deceased) were going to Sector 4,Kurukshetra on motorcycle bearing registration No. HR-07S-4433 which was being driven by Kartik Wadhwa on the left side of the road and Ram Wadhwa was pillion rider. Ramesh Kumar was following them on separate motorcycle. When they reached near circuit house , a car bearing No. HR-07S-0340 came from G.T. Road in a rash and negligent manner and hit the motorcycle. Consequently, Kartik Wadhwa and Ram Wadhwa fell on the road and received serious injuries . They were taken to Apna Hospital, Red Road, Kurukshetra. Kartik Wadhwa was referred to PGI, Chandigarh but he died on the way to Chandigarh F.I.R No. 693 dated 03.11.2012 was registered at P.S. City Thanesar under Sections 279/337/304-A IPC.

COMPENSATION ASSESSED BY THE TRIBUNAL

Ram Wadhwa

On account of medical expenses	Rs.4601/-
On account of Pain and sufferings	Rs.25,000/-
Transportation	Rs.25,000/-
Special Diet and attendant	Rs.15,000/-
Total	Rs.69,600/-

Kartik Wadhwa

Sr. No.	Heads	Calculations
(i)	Salary	Rs.5000/- per month
(iii)	½ of (i) deducted as personal expenses of the deceased=	Rs.5000-Rs.2500=Rs.2500/- per month
(iv)	Compensation after multiplier of 18 is applied	Rs.2500 X 12 X 18= Rs.05,40,000/-
(v)	Love and affection	Rs.50,000/-
(vi)	Funeral and last rites expenses	Rs.10,000/-
	Total	Rs.6,00,000/-

4. Feeling dissatisfied with the impugned award, appellants-injured have preferred the above mentioned appeals.

REASSESSED COMPENSATION

5. Learned counsel for the appellant-injured Ram Wadhwa contends that the appellant had suffered multiple fractures and he has to visit so many times in the hospital for follow up medical check up and thus, the appellant was awarded less under the head of pain and suffering and he has been awarded less under the head of special diet and transportation.

6. Learned counsel for the appellant- Kartik Wadhwa contends that the compensation awarded by the learned Tribunal is on the lower side and deserves to the enhanced
7. Learned counsel for the Insurance company has not disputed the fact that the accident had taken place and that the driver of both the vehicles were responsible for the accident.
10. I have heard learned counsel for the parties and perused the case filed and the awarded passed by the Tribunal requires modification.

Kartik Wadhwa

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.5000/- per month
(ii)	40% of (i) above to be added as future prospects=	Rs.5000+Rs.2000=Rs.7000/- per month
(iii)	½ of (ii) deducted as personal expenses of the deceased=	Rs.7000-Rs.3500=Rs.3500/- per month
(iv)	Compensation after multiplier of 18 is applied	Rs.3500 X 12 X 18= Rs.07,56,000/-
(v)	Conventional heads (Loss of estate and funeral expenses)	Rs.30,000/-
	Love and affection	Rs.50,000/- (as awarded by the Tribunal since the awarded amount has already been released to the claimants as informed by learned counsel for the claimant)
(vi)	Total Compensation awarded	Rs.08,36,000/-
	Enhanced amount of compensation	Rs.08,36,000-Rs.06,00,000=Rs.2,36,000/-

Ram Wadhwa

<i>On account of medical expenses</i>	<i>Rs.4601/-</i>
<i>On account of Pain and sufferings</i>	<i>Rs.25,000/-</i>
<i>Transportation</i>	<i>Rs.25,000/-</i>
<i>Special Diet and attendant</i>	<i>Rs.15,000/-</i>
<i>For treatment in the hospital</i>	<i>Rs.50,000/-</i>
<i>Total compensation awarded</i>	<i>Rs.1,19,600/-</i>
<i>Enhanced amount of compensation</i>	<i>119600-69600=Rs.50,000/-</i>

11. Resultantly, the above mentioned two appeals filed by the claimants are partly allowed
12. Accordingly, the enhanced amount of compensation of Rs.50,000/- (in FAO No. 7551-2014) & Rs.2,36,000 (in FAO No. 7615-2014) 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.

January 22, 2018
G Arora

(*RITU BAHRI*)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>