

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

**FAO No. 1007 of 1998**

**Date of decision:- 08.09.2015**

Roopa Devi and another

...Appellants

Versus

Ajmer Singh and others

...Respondents

***CORAM: HON'BLE MS. JUSTICE RITU BAHRI***

Present:- Mr. Suresh Kumar Kaushik, Advocate  
for the appellants

Mr. Rohit Goswami, Advocate for  
Mr. Ravinder Arora, Advocate  
for respondent-Insurance Company

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

**RITU BAHRI J. (Oral)**

1. The present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 11.11.1997 passed by the learned Motor Accident Claims Tribunal, Hisar (for short, 'the Tribunal') to the tune of Rs.1,35,000/-.

**FACTS NOT IN DISPUTE**

2. On 21.01.1994, Ramesh (since deceased) was returning from Hansi to village Barasi on his cycle. In the meantime, a matador No. DL-2CE-5278 came from Hansi side at a very fast speed, being driven by respondent No. 1 and struck with the cycle of the deceased, who died at the spot. F.I.R (Ex P1) was registered in this regard by P.W.2 Om Parkash. The deceased

was only 20 years old at the time of the alleged accident.

3. The learned counsel for the claimants-appellants contends that the compensation awarded by the learned Tribunal is on the lower side, as future prospect has not been given and further the compensation has been given as lump sum, thus the compensation 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***" and "***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***."

4. On the other hand, the learned counsel for the respondent-Insurance Company have vehemently opposed the present appeal.

5. I have heard learned counsel for the parties and perused the record.

#### **COMPENSATION ASSESSED BY MACT**

6. The learned Tribunal assessed the salary of the deceased at Rs.1500/- per month presuming him to be a labourer as there was no proof of the income of the deceased. The learned Tribunal has only awarded Rs.1,35,000/- towards compensation

#### **RE-ASSESSED COMPENSATION**

7. It is not in dispute that the accident had taken place and the

offending vehicle was fully insured with the Insurance company.

8. Reference at this stage can be made to a judgment passed by Hon'ble the Supreme Court in a case of **New India Assurance Co. Ltd v. Gopali and others, 2012 (12) SCC 198** whereby Hon'ble the Supreme Court in an old case of 1992 had taken the monthly income of deceased at Rs.3000/- and cut of 1/10<sup>th</sup> was imposed, keeping in view the fact that a person having a minimum income of Rs.3000/- could not think of spending 1/3<sup>rd</sup> of his income on himself.

9. Keeping in view the above mentioned judgments, the compensation has to be re-assessed as follows :-

| <i>Sr. No.</i> | <i>Heads</i>                                                      | <i>Calculations</i>                |
|----------------|-------------------------------------------------------------------|------------------------------------|
| (i)            | Salary                                                            | Rs.1500/- per month                |
| (ii)           | 50% of (i) above to be added as future prospects=                 | Rs.1500+Rs.750=Rs.2250/- per month |
| (iii)          | 1/10 <sup>th</sup> deducted as personal expenses of the deceased= | Rs.2250-225=Rs.2025/-              |
| (iv)           | Compensation after multiplier of 18 is applied                    | Rs.2025X12X18= Rs.4,37,400/-       |
| (v)            | Funeral charges, loss of love and affection, loss of estate       | Rs.75,000/-                        |
| (xii)          | Total Compensation awarded                                        | Rs.5,12,400/-                      |
|                | Enhanced amount of compensation                                   | 5,12,400-1,35,000=Rs.3,77,400/-    |

9. Resultantly, the enhanced amount of compensation of Rs.3,77,400 /- 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.

10. With the aforesaid modification in the impugned award, the appeal is allowed to the above extent.

September 08, 2015

G Arora

( ***RITU BAHRI*** )  
***JUDGE***