

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

**F.A.O No. 4982 of 2012**

**Date of decision:- 05.09.2017**

Smt. Usha and ors.

...Appellants

Versus

Arun Patel & others

...Respondents

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

Present:- Mr. Pankaj Middha, Advocate  
for the appellants

Mr. Sansar Kundu, Advocate  
for respondent No. 1 to 3.

Mr. Ashwani Talwar, Advocate for respondent No. 4

**RITU BAHRI J. (Oral)**

1. The present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award/order dated 02.03.2012 passed by the learned Motor Accident Claims Tribunal, Jind (for short, 'the Tribunal') to the tune of Rs.5,28,400/-.

**FACTS NOT IN DISPUTE**

2. On 06.05.2011, Rajbir (since deceased) had gone to his field to supervise the operation of lifting of earth from it with JCB machine bearing registration No. HR-56-9785 driven by respondent No. 1 having respondent No. 2 as helper who while driving in a rash, negligent and careless manner, run over its left back tyre over him resulting into fatal and serious injuries to him, causing his death at the spot. He was shifted to hospital in a dumper. Thereafter, his father Karambir and Hari Om reached at the spot. F.I.R was

registered under Sections 279/304-A IPC.

3. The learned counsel for the claimants-appellants contends that the compensation awarded by the learned Tribunal is on the lower side and 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 has 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 held that the deceased was about 32-33 years. Further the statement of P.W.5 was found not to be trustworthy as he in his cross examination had admitted that the deceased was his nephew. P.W.5 stated that he was owner of 12 acres of land as per jamabandi Ex P7 and had given it to the deceased on lease @ Rs.32,000/- per acre since May, 2010, vide writing Ex P6. The tribunal took the monthly salary of the deceased at Rs.3600/- per month to be that of a casual labourer. 1/4<sup>th</sup> deducted towards his personal expenses. The dependency of the claimants comes to Rs.32,400/- per annum. Multiplier of 16 was applied. Rs.10,000/- was given towards funeral expenses. The total amount of Rs.5,28,400/- was

awarded to the claimants.

**RE-ASSESSED COMPENSATION**

7. 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.

8. 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.5000                                        |
| (ii)           | 50% of (i) above to be added as future prospects=           | Rs.5000+Rs.2500=Rs.7500/-                      |
| (iii)          | 1/10 of (ii) deducted as personal expenses of the deceased= | Rs.7500-750=Rs.6750/-                          |
| (iv)           | Compensation after multiplier of 16 is applied              | 6750X12X16=Rs.12,96,000/-                      |
| (v)            | Loss of consortium                                          | Rs.1,00,000/-                                  |
| (vi)           | Loss of love and affection to three minor children          | Rs.3,00,000/-                                  |
| (vi)           | Loss of love and affection to parents                       | Rs.1,00,000/- (Rs.50,000/- each)               |
| (vii)          | Funeral charges                                             | Rs.25,000/-                                    |
| (viii)         | Total Compensation awarded                                  | Rs.18,21,000/-                                 |
|                | <b>Enhanced amount of compensation</b>                      | <b>Rs.18,21,000-Rs.5,28,400=Rs.12,92,600/-</b> |

09. Resultantly, the enhanced amount of compensation of Rs.12,92,600/- 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.

05.09.2017  
*G Arora*

(RITU BAHRI)  
*JUDGE*

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