

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

F.A.O No. 2521 of 2013

Date of decision:- 06.09.2017

Ritu Rani and another

...Appellants

Versus

Amarjit Singh & others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. R.S. Longia, Advocate
for the appellants.

Mr. Suman Jain, Advocate
for respondent No.3.

RITU BAHRI J. (Oral)

1. Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 4th March, 2013, passed by the learned Motor Accident Claims Tribunal, Kurukshetra (for short, 'the Tribunal') whereby in a claim petition under Section 166 of Motor Vehicles Act, 1988, compensation to the tune of Rs.6,50,128/- was awarded to the claimants on account of death of Raj Kumari @ Paro along with her son Tej Pal who died in a motor vehicle accident.

2. On 21st April, 2012, Raj Kumari @ Paro (since deceased) along with her son Tej Pal (since deceased) had proceeded from Village Dhyangla to Ladwa for taking medicines of Raj Kumari @ Paro on motorcycle No.HR-07P-2212 which was driven by Tej Pal at a moderate speed and on due left side of the road. Arun Kumar was following them on separate motorcycle. At about 03:00 p.m. when they reached near I.G.N. College in

the area of Village Dhanuara then the offending motorcycle bearing No.HR-07H-5721 being driven by respondent No.1 Amarjit Singh in a rash and negligent manner and in violation of traffic rules came from Ladwa side i.e. opposite side and struck against the motorcycle of Tej Pal by coming on the wrong side of the road, as a result of which Tej Pal and Raj Kumari @ Paro fell on the road. The head of Tej Pal struck against the road and he died at the spot, whereas Raj Kumari @ Paro suffered serious and grievous injuries. She was shifted to CHC Ladwa and from there she was referred to LNJP Hospital, Kurukshetra but she could not survive and died on the way to LNJP Hospital, Kurukshetra on the same day. FIR No.61 dated 21.04.2012, under Sections 279, 337 and 304-A IPC was registered against respondent No.1 in Police Station Ladwa.

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.
6. The compensation awarded by learned MACT as follows:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.5000
(ii)	2/3 deducted as personal expenses of the deceased=	Rs.3334/-
(iii)	Compensation after multiplier of 16 is applied	3334X12X16=Rs.6,40,128/-
(iv)	Funeral charges	Rs.10,000/-
(v)	Total Compensation awarded	Rs.6,50,128/-

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 1/10th was imposed, keeping in view the fact that a person having a minimum income of Rs.3000/- could not think of spending 1/3rd 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 one minor daughter	Rs.1,00,000/-
(vii)	Loss of love and affection to father	Rs.50,000/-
(viii)	Funeral charges	Rs.25,000/-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
	Total Compensation awarded	Rs.15,71,000/-
	Enhanced amount of compensation	Rs.15,71,000-Rs.6,50,128=Rs.9,20,872/-

9. Resultantly, the enhanced amount of compensation of Rs.9,20,872/- 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.

06.09.2017
m. sharma

(RITU BAHRI)
JUDGE

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