

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

FAO No.4854 of 2014

Date of Decision: 16.11.2017

Ram Kumar and others

.....Appellants

Vs.

Ashok and others

.....Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

**Present:-** Mr.K.S.Malik (I), Advocate, for the appellants.

Mr.Munish Gupta, advocate, for respondent No.1.

Mr.J.P.Sharma, Advocate, for respondent No.2.

Mr.V.K.Garg, Advocate, for the respondent-Insurance Co.

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**RITU BAHRI, J. (ORAL)**

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 04.01.2014, passed by the learned Motor Accident Claims Tribunal, Rohtak (for short, 'the Tribunal') vide which compensation to the tune of Rs.4,61,000/- was awarded to the claimants on account of death of Smt.Rajo Devi.

**FACTS NOT IN DISPUTE**

On 15.12.2012, Satish Kumar was going from hi village Jassia to see his Mama along with his mother Smt.Rajo (since deceased) on a motor cycle bearing registration No.HR-60D/3073 Splender NKG. The motor cycle was being driven by Satish at moderate speed and by observing all the traffic rules. Smt.Rajo was pillion rider and at about 4:30 p.m. when they reached near Water House of village Ghiour Kalan, Police Station Sadar Rohtak, a tanker bearing registration No.HR-66/2105 being driven by the driver/respondent No.1 in a rash and negligent manner came from back side from Panipat side, towards the aforesaid motor cycle which was in the process of crossing the speed breaker. As a result of which motor cycle got imbalanced and thus Rajo fell down on the road and was run over by the said tanker. Smt.Raho died at the spot due to fatal injuries received by her in

this accident. An FIR No.454 dated 15.12.2012 for the offence under Section 279,304A of IPC was registered in Police Station Sadar Rohtak.

**COMPENSATION ASSESSED BY MACT**

The Tribunal held that the deceased was 48 years old as per her postmortem report Ex.P1 and the claimants failed to produce on the record any documentary evidence regarding income of the deceased. The factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company.

| Sr.No. | Heads of compensation                                   | Amount                               |
|--------|---------------------------------------------------------|--------------------------------------|
| 1      | Income                                                  | Rs.3,000/-                           |
| 2.     | Deduction 1/4th                                         | Rs.3000 --- Rs.750= Rs.2250/-        |
| 3.     | Annual loss of dependency after applying the multiplier | Rs.2250/- X 12 X13=<br>Rs.3,51,000/- |
| 4.     | Consortium as per Rajesh Rajbir Judgment.               | Rs.1,00,000/-                        |
| 5.     | Transportation and Funeral expenses                     | Rs.10,000/-                          |
|        | Total                                                   | Rs.4,61,000/-                        |

Learned counsel for the claimant-appellant contends that the compensation awarded by the Tribunal is on the lower side and deserves to be enhanced, in view of the judgment "**National Insurance Company Ltd. Vs. Pranay Sethi and others SLP(C) 25590 of 2014 decided on 31.10.2017**". He further submits that income of the deceased was taken on the lower side and benefit of future prospect has not been awarded.

On the other hand, the learned counsel for the respondents have vehemently opposed the present appeal.

***RE-ASSESSED COMPENSATION***

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

Since the accident took place in the year 2012 and as in the State of Haryana minimum wages in the year 2012 was Rs.5,000/- per month as daily wager, the income of the deceased is being modified and Rs.5,000/- per month is taken as income of the deceased.

It is not in dispute that the offending vehicle was fully insured with the Insurance company. Following the ratio of law laid down by

Hon'ble the Supreme Court in the above mentioned judgments, the

compensation has to be re-assessed as follows:-

| Sr.No. | Heads of compensation                                    | Amount                                            |
|--------|----------------------------------------------------------|---------------------------------------------------|
| 1      | Income                                                   | Rs.5,000/- per month                              |
| 2.     | Future prospect 25% as per judgment Pranay Sethi (Supra) | Rs.5,000 + Rs.1250= Rs.6250/-                     |
| 3.     | Deduction 1/4th                                          | Rs.6250/--Rs.1562/-= Rs.4688/-                    |
| 4.     | Annual loss of dependency after applying the multiplier  | Rs.4688/- X 12 X13=<br>Rs.7,31,328/-              |
| 5.     | Conventional heads                                       | Rs.70,000/-                                       |
|        | Total                                                    | Rs.8,01,328/-                                     |
|        | Enhanced amount of compensation                          | Rs.8,01,328/- --- Rs.4,61,000/-=<br>Rs.3,40,328/- |

Resultantly, the enhanced amount of compensation of Rs.3,40,328/- 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. With the aforesaid modification in the impugned award, the appeal is allowed to the above extent.

(RITU BAHRI)  
JUDGE

16.11.2017  
anil  
Whether speaking/reasoned Yes/No  
Whether reportable Yes/No