

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

FAO No.4284 of 2015

Date of Decision: 14.12.2017

Usha Devi and anr.

.....Appellants

Vs.

Mandeep Kumar and Ors.

.....Respondents

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

**Present:-** Mr.Anil Kumar Spehia, Advocate,  
for the appellants.

Mr.D.P.Gupta, 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 23.08.2014, passed by the learned Motor Accident Claims Tribunal, Hoshiarpur (for short, 'the Tribunal') vide which compensation to the tune of 5,75,000/- was awarded to the claimants on account of death of Rakesh Kumar @ Keshi.

**FACTS NOT IN DISPUTE**

On 16.07.2012, Rakesh Kumar @ Keshi was going from Hoshiarpur to Village Dangeri Beet on motorcycle HP-38-6508. Mandeep Kumar and Narinder Kumar were pillion riders. Nand Lal son of Roshan Lal and Parshotam Lal son of Dilbag Rai were following them on their separate motorcycles. The deceased was driving the motorcycle on its correct side and at normal speed. At about 2:00 p.m., when they reached near JNJ Marriage Palace, Village Chabbewal on Hoshiarpur to Chabbewal road, a Toyota car bearing registration No.CH-05T-1354 driven by respondent No.1 in a very rash and negligent manner came from the opposite side and struck the same into motorcycle driven by Rakesh Kumar @ Keshi on extreme wrong side. As a result, all the occupants on the motorcycle fell down and suffered fatal injuries. They were taken to Civil Hospital, Hoshiarpur in

Ambulance No.108, where Rakesh Kumar @ Keshi died on account of injuries. An FIR has been registered for an offence under Sections 279, 304A, 338, 337, 427 IPC has been registered against Mandeep Kumar-respondent No.1.

**COMPENSATION ASSESSED BY MACT**

The Tribunal held that the deceased was 20 years old 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 as per daily wages                               | Rs.5,000/-                         |
| 2.     | Deduction 50%                                           | Rs.5000 --- Rs.2500= Rs.2500/-     |
| 3.     | Annual loss of dependency after applying the multiplier | Rs.2500/- X 12 X 15= Rs.4,50,000/- |
| 4.     | Funeral expenses                                        | Rs.25,000/-                        |
| 5.     | Loss of love and affection                              | Rs.1,00,000/-                      |
|        | Total                                                   | Rs.5,75,000/-                      |

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 "**Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77'; National Insurance Company Ltd. Vs. Pranay Sethi and others SLP(C) 25590 of 2014 decided on 31.10.2017.**

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 learned Tribunal has granted Rs.1,25,000/- on the conventional heads which is already on the higher side, no further enhancement is required to be made on this account.

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 as per daily wages                               | Rs.5,000/-                                          |
| 2.     | Future prospect 40%                                     | Rs.5,000/- + Rs.2,000/-=<br>Rs.7000/-               |
| 3.     | Deduction 50%                                           | Rs.7000/- --- Rs.3500/-=<br>Rs.3500/-               |
| 4.     | Annual loss of dependency after applying the multiplier | Rs.3500/- X 12 X 18=<br>Rs.7,56,000/-               |
| 5.     | Funeral expenses                                        | Rs.25,000/- (already released)                      |
| 6.     | Loss of love and affection                              | Rs.1,00,000/- (already released)                    |
|        | Total                                                   | Rs.8,81,000/-                                       |
|        | Enhanced amount of compensation                         | Rs.8,81,000/- ---- Rs.5,75,000/-<br>= Rs.3,06,000/- |

Resultantly, the enhanced amount of compensation of Rs.3,06,000/- 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

14.12.2017  
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No