

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

**FAO No. 8765 of 2014
Date of decision:- 11.09.2017**

Nirmala Devi and others

...Appellants

Versus

Sunil Kumar and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Vikram Singh, Advocate
for the appellants

Dr. Deepak Jindal, Advocate
for respondent No. 1 and 2.

Mr. Neeraj Khanna, Advocate for
Mr. R.M. Suri, Advocate
for respondent No. 3

RITU BAHRI J. (Oral)

1. The present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 17.04.2014 passed by the learned Motor Accident Claims Tribunal, Karnal (for short, 'the Tribunal') to the tune of Rs.3,87,300/-.

FACTS NOT IN DISPUTE

2. On 24.10.2012, Samey Singh (since deceased) was going from Samalkha to his village on his moped. His son was following his father on a separate motor cycle. When they reached in front of gate of Nirnakari Satsang Ghar, situated at G.T.Road, Samalkha, then at that time, Innova car bearing No. HR-65-K-6022 came from behind and hit against the moped being driven by Samey Singh. Due to impact, he had fallen down on the road and sustained serious/multiple injuries on his legs, hand and head. F.I.R No. 690 dated 25.10.2012 has been registered against respondent No. 2. Simmay Singh succumbed

to his injuries on 10.11.2012 at P.G.I Rohtak.

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*. Learned counsel for the appellants submits that as per Rajesh's case (supra), the Tribunal should have awarded 15% towards future prospects and further nothing has been awarded towards love and affection to children and wife.

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

Sr. No.	Heads	Calculations
(i)	Salary	Rs.5000/- per month
(ii)	1/2 nd (i) deducted as personal expenses of the deceased=	Rs.5000-Rs.2500=Rs.2500 per month
(iii)	Annual Dependency	Rs.2500X12=Rs.30000/-
(iv)	Compensation after multiplier of 11 is applied	Rs.30000X11= Rs.3,33,000/-
(v)	Funeral charges	Rs.10,000/-
(vi)	Loss of Estate	Rs.10,000/-
(vii)	Loss of consortium	Rs.10,000/-
(viii)	Loss of love and affection	Rs.20,000/-
(ix)	Medical Bills	Rs.4305/-
	Total Compensation awarded	Rs.3,87,305/- (rounded off to Rs.3,87,300/-)

RE-ASSESSED COMPENSATION

6. It is not in dispute that the offending vehicle was fully insured from the Insurance company. Its genuineness is also not under challenge.

7. Reference at this stage can be made to a judgment of Gujarat High Court in a case of *Ruben Borah v. Anju Borah and others, 2005(4) GauLT 127* wherein it has been held that the married daughters being Class-I heirs are entitled to get compensation equally.

7. 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:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.5000/- per month
(ii)	15% of (i) above to be added as future prospects=	Rs.5000+Rs.750=Rs.5,750 per month
(iii)	1/4 th of (ii) deducted as personal expenses of the deceased=	Rs.5750-Rs.1437=Rs.4313 per month
(iv)	Compensation after multiplier of 11 is applied	Rs.4313 X 12 X 11= Rs.5,69,316/-
(v)	Loss of consortium	Rs.1,00,000/-
(vi)	Loss of love and affection to two children	Rs.2,00,000/- (Rs.1,00,000/- each)
(vii)	Loss of love and affection to married daughter	Rs.50,000/-
(viii)	Funeral charges	Rs.25,000/-
(ix)	Total Compensation awarded	Rs.09,44,316/-
	Enhanced amount of compensation	09,44,316-3,87,300=Rs.5,57,016/- rounded off to Rs.5,57,000/-

8. Resultantly, the enhanced amount of compensation of **Rs.5,57,000/-** 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.

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

September 11, 2017
G Arora

(***RITU BAHRI***)
JUDGE