

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

FAO No. 1312 of 2015

Date of decision:- 26.02.2018

Smt. Munni Devi and Anr

...Appellants

Versus

Rajesh Kumar and Others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: None for the appellants.

Mr. Lalit Garg, Advocate,
for respondent No. 3.

RITU BAHRI J. (Oral)

The present appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Kaithal (hereinafter referred to as 'the Tribunal') vide Award dated 18.12.2014, on account of death of Rama @ Ram Niwas in a motor vehicular accident which took place on 20.01.2014.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 20.01.2014 at about 10.00 AM deceased Rama Niwas was sitting in the three wheeler bearing registration No. HR-56A-5057 (hereinafter in brevity referred to as the offending vehicle) which was coming from Subzi Mandi and was going towards his quarter, that respondent No. 1 was driving the vehicle in question in rash and negligent manner without observing the traffic rules; there was a big pit/khadda on the road near Railway Station, Kaithal; that when vehicle in question was crossing the said pit/khadda, it took a jerk and

turned turtle and as a result of which, deceased Rama alias Ram Niwas fell down on the road and sustained multiple serious and grievous injuries on vital parts of his body; that respondent No. 1 shifted Rama alias Ram Niwas injured to General Hospital, Kaithal where he was provided first aid and referred to PGI Chanidgarh but on the way, injured Rama alias Ram Niwas succumbed to the injuries. It is further pleaded that post mortem on dead body of deceased Rama alias Ram Niwas was conducted at General Hospital, Kaithal.

Consequently, Claimants filed the claim petition before the Tribunal under Section 163-A of the Motor Vehicles Act, 1988.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had been caused on account of rash and negligent driving of respondent No.1 while driving offending vehicle. Claimants submits that at the time of accident, deceased was 22 years of age and was earning Rs.3,300/- per month by selling vegetables.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimants. Hence, compensation awarded by the Tribunal as under :

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.3,300/- per month
(ii)	1/2 nd deducted towards personal expenses	Rs.3300-1650=1650/- P.M.
(iii)	After applying appropriate multiplier by the Tribunal amount of compensations comes to	1650X12X18=3,56,400/-
(iv)	Compensation towards last rites and funeral	Rs.20,000/-
	Total Compensation Awarded	Rs.3,76,400/-

Feeling dissatisfied with the impugned award, the claimants-

appellants have preferred the present appeal.

I have heard learned counsel for the parties and perused the case file.

REASSESSED COMPENSATION

The fact of accident is admitted and proved. In the peculiar facts and circumstances of the case, to meet the ends of justice and compensation awarded by the Tribunal requires to be reassessed keeping in view the *The Second Schedule under Section 163-A of Motor Vehicle Accident Act, 1988* wherein it has been held that, the amount of compnesation shall be reduced by 1/3rd in consideration of expenses which the victim would have incurred toward maintaining himself had he been alive. On the other hand, at the time of awarding the compnesation, Tribunal applied the multiplier as per the law laid down in *Smt. Sarla Verma and Others Versus Delhi transport Corporation and Anr 2009(3) PLR22* which required to be set aside as per the Second Schedule. Hence, keeping in view the law laid down in Second Schedule under Section 163-A, reassessed amount of compensation as under:

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.3,300/- per month
(ii)	1/3 rd deducted towards personal expenses as per the second Schedule of Section 163-A.	Rs.3300-1100=2,200/- P.M.
(iii)	After applying multiplier as per the II nd Schedule i.e. 17	1650X12X17=4,48,800/-
(iv)	Compensation towards last rites and funeral	Rs.20,000/-(remained same, not required to be changed)
	Total reassessed amount of compensation	Rs.4,68,800/-
	Total Enhanced amount of compensation	Rs.4,68,800-3,76,400=92,400/-

The enhanced amount of compensation of **Rs.92,400** /- shall be

payable within a period of two months from the date of receipt of certified copy of this order. As per the judgment of Hon'ble Supreme Court in case **Shri Nagar Mal and Ors versus The Oriental Insurance Company Ltd. And Ors decided on 19.01.2018** the enhanced amount of compensation shall carry interest @ 7.5% per annum from the date of filing of the claim petition, till its realization.

Remaining conditions of disbursal of amount shall remain unaltered.

Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

26.02.2018
Riya Grover

(RITU BAHRI)
JUDGE

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