

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

FAO No.3939 of 2015

Date of Decision: 02.07.2018

Kajal and others

.....Appellants

Vs.

Rohtas and others

.....Respondents

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

**Present:-** Mr.Parminder Singh, Advocate, for the appellants.

Mr.M.B.Jain, Advocate, for  
respondent No.3/Insurance Company.

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

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 17.01.2015 passed by the learned Motor Accident Claims Tribunal, Karnal (for short, 'the Tribunal') vide which compensation to the tune of Rs.5,36,800/- was awarded to the claimants on account of death of Namita wife of Siri Chand in a motor vehicular accident.

**FACTS NOT IN DISPUTE**

On 04.04.2013, Smt.Namita went to Nissing for some personal work of the family and for returning from Nissing to village Sambhli, she was in the way to get conveyance and when she reached near State Ware House, Nissing, the offending tractor Swaraj 735 bearing No.HR-21A-9097 came from behind and hit her and run over her body. On receiving information about of the death of Namita in the accident at about 12:30 p.m.

injuries on the various parts of her body. A formal FIR No.140 dated 04.04.2013 for the offence under Sections 279 and 304-A of the Indian Penal code has been registered.

**COMPENSATION ASSESSED BY MACT**

The Tribunal held that the deceased was 45 years old at the time of his death. The claimants failed to produce on the record any documentary evidence regarding income of the deceased as such her income was assessed by the learned Tribunal as Rs.4200/- per month. The factum of accident had been proved and the offending vehicle was insured with respondent No.3- Insurance Company. The compensation has been assessed as under:

| Sr.No. | Heads of compensation                              | Amount                                |
|--------|----------------------------------------------------|---------------------------------------|
| 1      | Income as casual labourer                          | Rs.4200/-per month                    |
| 2.     | Deduction 1/3th                                    | Rs.4200/- --- Rs.1400/-=<br>Rs.2800/- |
| 3.     | Total loss of dependency after applying multiplier | Rs.2800/- X 12 X 13=<br>Rs.4,36,800/- |
| 4.     | Loss of love and affection                         | Rs.50,000/-                           |
| 5.     | Funeral expenses                                   | Rs.50,000/-                           |
|        | Total                                              | Rs.5,36,800/-                         |

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 "**United India Insurance Company Limited Vs. Sube Singh and others passed in FAO No.218 of 2014**". 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.

As per judgment of "United India Insurance Company Limited Vs. Sube Singh and others passed in FAO No.218 of 2014", deceased was 40 years old lady and the co-ordinate Bench has considered that to tag a house wife as a 'skilled' worker alone does not do complete justice to her multifarious role as a home manager. It has been further observed that a house wife is something more than a mere skilled worker it would not be unreasonable to estimate the contribution of the deceased in the present case at a higher figure. Being a housewife, her income has been assessed at Rs.9,000/- per month and no deduction has been made on the income part. As such, in the present case, income of the deceased-Namita is taken as Rs.9,000/- and no cut shall be imposed thereof.

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 judgment, the compensation has to be re-assessed as follows:-

| Sr.No. | Heads of compensation                              | Amount                                                |
|--------|----------------------------------------------------|-------------------------------------------------------|
| 1      | Income as per minimum wages                        | Rs.9,000/- per month                                  |
| 2.     | Total loss of dependency after applying multiplier | Rs.9000/- X14 X12=<br>Rs.15,12,000/-                  |
| 5.     | Conventional heads                                 | Rs.15,000/-                                           |
|        | Total                                              | Rs.15,27,000/-                                        |
|        | Enhanced amount of compensation                    | Rs.15,27,000/- -----<br>Rs.5,36,800/-= Rs.09,90,200/- |

Resultantly, the enhanced amount of compensation of Rs.09,90,200/- 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 @ 7.5%% 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 **Shri Nagar Mal and Ors. Vs. The Oriental Insurance Company Limited and Others** passed in **Civil Appeal No.448 of 2018**. 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 and cross-objection is disposed of.

**(RITU BAHRI)**  
**JUDGE**

**02.07.2018**  
*anil*

*Whether speaking/reasoned Yes/No*

*Whether reportable Yes/No*