

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

FAO No.6505 of 2015 (O&M)

Date of Decision: 11.01.2018

Gurmail Kaur

.....Appellant

Vs.

Malkiat Singh and Ors.

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

**Present:-** Mr.Vikram, Bali, Advocate,  
for the appellants.

Mr.R.K.Shukla, Advocate, for respondent No.2.

Mr.R.C.Gupta, Advocate, for  
respondent No.3-Insurance Company.

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**RITU BAHRI, J. (ORAL)**  
**CM No.20387-CII of 2015**

For the reasons stated in the application, delay of 692 days in  
filing the appeal is condoned.

Application stands disposed of.

**Main Case**

Present appeal has been preferred by the claimants-appellants  
(for short 'the appellants'), against award dated 06.07.2013, passed by the  
learned Motor Accident Claims Tribunal, SAS Nagar (Mohali) (for short,  
'the Tribunal') vide which compensation to the tune of Rs.3,00,000/- was  
awarded to the claimants on account of death of Avtar Singh.

**FACTS NOT IN DISPUTE**

On 18.03.2012, the deceased Avtar Singh along with Harkirat  
Singh were going on the motorcycle bearing No.PB-23-H-8402 from their  
village toward Village Ballo Majra. At that time, the motorcycle was driven

they crossed S.Y.L and were near village Todar Majra, at about 7:00 P.M., on car bearing No.PB-11-AN-9649 came from opposite side i.e. from Chunni side driven in rash and negligent manner and it hit the motorcycle of the deceased. The occurrence took place near village Todar Majra. Avtar Singh fell down and received multiple injuries on his back and head injury. Harkirat Singh also received injuries and was transported to PGI Chandigarh in an ambulance. Avtar Singh was taken to Civil Hospital, Kharar, where he was declared dead. An FIR No.44 dated 19.03.2012 for the offence under Section 279, 337 304-A IPC, P.S.Kharar, Ex.P-1.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 22 years old as per his post mortem report Ex.P2 and the claimants failed to produce on the record any documentary evidence regarding income of the deceased. Keeping in view the above, the learned Tribunal has assessed the compensation as under:

| Sr.No. | Heads of compensation                                   | Amount                                      |
|--------|---------------------------------------------------------|---------------------------------------------|
| 1      | Income as daily wager                                   | Rs.5,000/- X 12 = Rs.60,000/- p.a.          |
| 2.     | Future prospect 30%                                     | Rs.60,000/- + Rs.18,000/-= Rs.78,000/- p.a. |
| 3.     | Deduction 1/2th                                         | Rs.78,000/- p.a.-- Rs.39,000/- = Rs.39000/- |
| 4.     | Annual loss of dependency after applying the multiplier | Rs.39,000/- X 7= Rs.02,73,000/-             |
| 5      | Funeral Expenses                                        | Rs.5,000/-                                  |
| 6.     | Transportation                                          | Rs.5,000/-                                  |
| 7.     | Loss of estate                                          | Rs.1,0000/-                                 |
| 8.     | Loss of consortium                                      | Rs.7,000/-                                  |
|        | Total                                                   | Rs.3,00,000/-                               |

Learned counsel for the claimant-appellant contends that the compensation awarded by the Tribunal is on the lower side and deserves to

the 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.** Learned counsel submits that the loss of consortium awarded by the Tribunal is on the lower side and further nothing has been awarded towards love and affection to parents, who were fully dependent upon the deceased. 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.

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 daily wager                                    | Rs.5,000/- X 12 = Rs.60,000/- p.a.              |
| 2.     | Future prospect 40% as per judgment Pranay Sethi (Supra) | Rs.60,000/- + Rs.24,000/-=<br>Rs.84,000/- p.a.  |
| 3.     | Deduction 1/2th                                          | Rs.84,000/- p.a.-- Rs.42,000/- =<br>Rs.42000/-  |
| 4.     | Annual loss of dependency after applying the multiplier  | Rs.42,000/- X 18=<br>Rs.7,56,000/-              |
| 5      | Conventional heads                                       | Rs.30,000/-                                     |
|        | Total                                                    | Rs.7,86,000/-                                   |
|        | Enhanced amount of compensation                          | Rs.7,86,000/- ----<br>Rs.3,00,000=Rs.4,86,000/- |

Resultantly, the enhanced amount of compensation of Rs.4,86,000/- 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**

**11.01.2018**

*anil*

*Whether speaking/reasoned Yes/No*

*Whether reportable Yes/No*