

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

FAO No.6548 of 2016

Date of Decision: 19.04.2018

Rajat

....Appellant

V/S

Sukhdip and Others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present : Mr. Tarun Deep Kumar, Advocate,
for the appellant.

Mr. Vinod Gupta, Advocate,
for the Insurance Company.

RITU BAHRI, J.(Oral)

CM No.22379-CII of 2016

For the reasons mentioned in the application same is allowed
and delay of 302 days in filing the present appeal is condoned.

Accordingly, present application stands disposed of.

Main Case:

This appeal has been filed by the claimant-appellant seeking
enhancement of compensation awarded by Motor Accident Claims Tribunal,
Kurukshetra (hereinafter referred to as 'the Tribunal') vide award dated
28.07.2015, on account of death of Miran Devi in a motor vehicular
accident which took place on 21.11.2013.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 21.11.2013, Prem Chand son of
Lakshman, (uncle of claimant Rajat) along with Miran Devi (since
deceased) left his village for Kharindwa in order to meet his relatives. At
about 2.15 p.m., when they were standing on the road, a Haryana Roadways
Bus bearing No. HR-65-7124 (hereinafter referred to as Offending Vehicle)

being driven by respondent No.1 in a rash and negligent manner came from Pipli side and dashed against Miran Devi. As a result of which, she fell on the road and front wheel of the offending vehicle ran over her head, due to which, she died at the spot. In this regard, FIR No.348 dated 21.10.2013, under Sections 279 and 304A IPC was registered at P.S. Shahabad Ex. P1.

Consequently, claimants-appellants filed a claim petition before the Tribunal.

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 negligent driving of offending vehicle by its driver. This finding was rightly given on the basis of deposition of Prem Chand (PW1) who was an eye witness of the accident. Apart from this, claimants have also produced copy of FIR (Ex. P1), challan (Ex. P2) and site plan (Ex. P3). In absence of documentary evidence, Tribunal has assessed the income of the deceased at Rs.8,000/- per month as per the Judgment in case ***United India Insurance Company ltd. Versus Sube Singh and Others*** ***FAO No. 218 of 2014 decided on 15.01.2014.*** As per the copy of postmortem report Mark A produced on the file by the claimant, Miran Devi was 52 years of age at the time of accident. Hence, her age as on the date of her death has been taken as 52 while relying upon the law laid down in ***Smt. Sarla Verma and Others versus Delhi Transport Corporation and Anr, 2009(3) RCR 77,*** multiplier of 11 has been applied. As per prevalent law at that time, Tribunal assessed the compensation as under:

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.8,000/- per month
(ii)	Multiplier applied	Rs.8,000X12X11=10,56,000/-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(iii)	Compensation towards loss of love and affection	Rs.1,00,000/-
(iv)	Compensation towards last rites and funeral expenses	Rs.25,000/-
(v)	Compensation towards transportation charges	Rs.10,000/-
	Total amount of compensation	Rs.11,91,000/-

Feeling dissatisfied with the impugned award, the claimant-appellant has preferred the present appeal.

I have heard learned counsel for the parties and perused the record.

Parties are not in dispute with regard to the findings given on issue no. 1 that the accident had taken place due to rash and negligent driving of respondent No. 1.

After going through the impugned award, this court is of the opinion that compensation on all the heads, has rightly been awarded by the Tribunal and no modification is required therein. In view the law laid down in the judgment of Hon'ble Supreme Court in case *National Insurance Company Ltd vs. Pranay Sethi and others, passed in Spl Leave Petition (Civil) No. 25590 of 2014, decided on October 31, 2017.*

The impugned Award does not suffer from any material irregularity or perversity, warranting any interference. The evidence has been appreciated in the right perspective. Hence the present appeal stands dismissed.

19.04.2018

Riya Grover

(RITU BAHRI)

JUDGE

Whether speaking/reasoned Yes

Whether reportable No