

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

**FAO No.362 of 2017  
Date of decision: 20.04.2018**

Taruna Devi

....Appellant

Versus

Sukhvinder Singh and others

....Respondents

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

Present: Mr. R.K. Saini, Advocate,  
for the appellant.

Mr. Arun Kumar, Advocate,  
for Mr. Nonish Kumar, Advocate,  
for respondent No.1.

Mr. R.C. Kapoor, Advocate,  
for respondent No.4-Insurance Company.

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**RITU BAHRI J. (Oral)**

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal') vide award dated 26.07.2016 on account of death of Rajni in a motor vehicular accident which took place on 27.03.2015. Appellant is mother of deceased-Rajni.

**FACTS NOT IN DISPUTE**

Brief facts of the case are that on 27.03.2015, Rajni (since deceased) along with her cousin Rakesh Negi was coming to Karnal in Haryana Roadways bus bearing registration No.HR-45-B-0856. At about 11.30 A.M., the said bus reached at Baldi Bye-Pass. On the asking of

Rakesh, conductor got the bus stopped there. Firstly, Rakesh had alighted from the bus through its front door. When Rajni was in the process of alighting the bus, driver-respondent No.1 (Sukhvinder) abruptly, negligent and speedily plied the bus, due to which, she fell down on the road. Rakesh cried for stopping the bus, but respondent No.1-driver did not stop the same, as a result of which, rear tyre of the bus ran over Rajni and she received several multiple and grievous injuries. She was taken to Kalpana Chawla Government Medical College, Hospital, Karnal, where she was declared dead. With regard to the incident, FIR No.163 dated 27.03.2015, under Sections 279 & 304-A IPC was registered against respondent No.1 at Police Station, Sadar, Karnal. Consequently, the claimant-appellant 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 taken place on account of rash and negligent driving of the offending vehicle by its driver i.e. respondent No.1. This finding was rightly given on the basis of deposition of Rakesh (PW-2), who was an eye witness of the accident and on whose statement, FIR Ex.P9 was registered. Claimant has also proved on record copy postmortem report of deceased as Ex.P10.

Deceased-Rajni was an educated lady. In the absence of any documentary proof, notional income of the deceased was assessed as Rs.10,000/- per month i.e. Rs.1,20,000/- per month, out of which, 50% amount was deducted towards her personal expenses. By doing so, remaining amount came to be Rs.60,000/- per annum. As per postmortem report Ex.P10, deceased was 28 years of age at the time of death/accident.

Accordingly, multiplier of 17 was applied by the Tribunal. After applying the multiplier of 17, dependency of claimant came to Rs.10,20,000/- (60,000/- x 17). In addition to it, Rs.1,00,000/- were awarded on account of love and affection and Rs.25,000/- as funeral expenses. Hence, the claimant was found entitled to total compensation of Rs.11,45,000/- along with interest at the rate of 7% per annum from the date of filing of claim petition till realization. Feeling dissatisfied with the impugned award, the claimant-appellant has preferred the present appeal.

**REASSESSED COMPENSATION**

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

The fact of accident is admitted and proved. It stands established that the deceased has died as a result of the accident. Parties are not in dispute with regard to the findings given by Tribunal on issue No.1 that the accident had taken place due to rash and negligent driving of offending vehicle by respondent No.1. In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed in view of the judgments passed by Hon'ble the Supreme Court in **Sarla Verma and others vs. Delhi Transport Corporation and another**, 2009 (3) RCR (Civil) Page 77 and **National Insurance Company Limited Vs. Pranay Sethi and others**, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017) as under:-

| Sr. No. | HEADS                                                              | CALCULATIONS                |
|---------|--------------------------------------------------------------------|-----------------------------|
| (i)     | Income                                                             | Rs.10,000/- per month       |
| (ii)    | 40% of (i) above to be added as future prospects                   | 10,000 + 4000 = Rs.14,000/- |
| (iii)   | 50% of (ii) above is deducted as personal expenses of the deceased | 14,000 – 7000 = Rs.7000/-   |

|       |                                                |                                                     |
|-------|------------------------------------------------|-----------------------------------------------------|
| (iv)  | Compensation after multiplier of 17 is applied | Rs.7000/- x 12 x 17 =<br>Rs.14,28,000/-             |
| (v)   | Compensation under the conventional heads      | Rs.30,000/-                                         |
| (vi)  | <b>TOTAL COMPENSATION AWARDED</b>              | <b>Rs.14,58,000/-</b>                               |
| (vii) | <b>Enhanced amount of compensation</b>         | <b>Rs.14,58,000 – 11,45,000<br/>= Rs.3,13,000/-</b> |

The enhanced amount of compensation of **Rs.3,13,000/-** shall be payable within a period of two months 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 the case of “**Shri Nagar Mal and others vs. The Oriental Insurance Company Ltd. and others**, Civil Appeal No.448 of 2018 (arising out of SLP (C) No.26853 of 2016) decided on 19.01.2018.” 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.

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

20.04.2018  
ajp

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No