

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

**FAO No.6418 of 2017 (O&M)  
Date of decision: 16.04.2018**

Smt. Meena

....Appellant

Versus

Chetan Gupta and others

....Respondents

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

Present: Mr. Anoop Kumar Yadav, Advocate,  
for the appellant.

**RITU BAHRI J. (Oral)**

Notice of motion.

On the asking of the Court, Mr. Paul S. Saini, Advocate,  
accepts notice on behalf of respondent No.3-Insurance Company.

This appeal has been filed by the claimant-appellant seeking  
enhancement of compensation awarded by Motor Accident Claims Tribunal,  
Narnaul (hereinafter referred to as 'the Tribunal') vide award dated  
30.03.2017, on account of death of Kapil in a motor vehicular accident  
which took place on 21.04.2014. Appellant is mother of deceased-Kapil.

**FACTS NOT IN DISPUTE**

Brief facts of the case are that on 21.04.2014, Kapil (since  
deceased) along with his friend Sunil was coming to Narnaul from  
Ferozepur Jhirka in an Alto car bearing registration No. HR-28-D-9800.  
The said car was being driven by Sunil. Wife of Sunil and one another lady  
were also travelling in the car. At about 11.00 PM., when they reached near

mosque of village Maroda, a Qualis vehicle bearing registration No. HR-28-

D-9800 being driven by respondent No.1 in a rash and negligent manner, came and struck against the Alto car, as a result of which, Kapil and Mudrika wife of Sunil, suffered grievous injuries. They were taken to the hospital, where they succumbed to the injuries. With regard to the incident, FIR No.266 dated 24.04.2014, under Section 279/337/304-A IPC was registered against respondent No.1 at Police Station, Nooh, District Mewat. 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 offending vehicle by respondent No.1, as a result of which Kapil has died and thus, returned the finding on issue no.1 in favour of the claimants. This finding was rightly given on the basis of the deposition of Nashir Hussain (PW-2), who was an eye witness of the accident. Further, the claimant has proved on record certified copy of the charge sheet Ex.P1, report under Section 173 Cr.P.C. Ex.P2 and copy of FIR Ex.P9.

In the absence of any documentary proof, income of the deceased was assessed as Rs.8200/- per month. Out of this, 50% amount was deducted towards personal expenses of the deceased. The deceased was 23 years of age at the time of accident/death. He was a bachelor. After applying the multiplier of 18, dependency of claimant came to Rs.8,85,600/- (4100/- x 12 x 18). In addition to it, Rs.50,000/- were awarded on account of love and affection, Rs.10,000/- for loss of estate and Rs.10,000/- for funeral expenses. Hence, the claimant was found entitled to total

compensation of Rs.9,55,600/- along with interest @ 7% per annum from the date of filing of the 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. 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.8200/- per month                     |
| (ii)    | 40% of (i) above to be added as future prospects                   | 8200 + 3280 = Rs.11480/-                |
| (iii)   | 50% of (ii) above is deducted as personal expenses of the deceased | 11480 – 5740 = Rs.5740/-                |
| (iv)    | Compensation after multiplier of 18 is applied                     | Rs.5740/- x 12 x 18 = Rs.12,39,840/-    |
| (v)     | Compensation under the conventional heads                          | Rs.30,000/-                             |
| (vi)    | TOTAL COMPENSATION AWARDED                                         | Rs.12,69,840/-                          |
| (vii)   | Enhanced amount of compensation                                    | Rs.12,69,840 – 9,55,600 = Rs.3,14,240/- |

The enhanced amount of compensation of Rs.3,14,240/- 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**

16.04.2018  
ajp

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