

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

**FAO-2774-2001 (O&M)**

**Date of Decision: October 22, 2019**

Nirmal Kumari

.....Appellant

VERSUS

Girdhari Lal and others

.....Respondents

**CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR**

Present: Mr. Vinod K. Kanwal, Advocate for  
Mr. Ashit Malik, Advocate  
for the appellant.

Mr. Abhishek Goyal, Advocate for  
Mr. Pardeep Goyal, Advocate  
for respondent No.3.

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**JAISHREE THAKUR, J.(Oral)**

1. This is a first appeal that has been filed by the appellant seeking to challenge the award dated 25.07.2000 passed by the MACT, Karnal seeking enhancement of compensation on account of the injuries sustained by the deceased-Chander Bhan in the motor vehicle accident which took place on 08.10.1995.

2. In brief, the facts of the case are that on 08<sup>th</sup> October 1995 the

deceased- Chander Bhan, husband of the appellant, along-with Subhash Sachdeva were going on scooter bearing registration No.HR05B-9225 from Karnal to Taraori. Deceased-Chander Bhan was a pillion rider and when they reached opposite Mahavir Solvent Plant, Taraori, a four wheeler bearing registration No. HR-45-0358, being driven by respondent No.1 in a rash and negligent manner by coming on the wrong side hit the scooter. Due to the impact of the accident, both riders of the scooter fell down and received multiple injuries. Deceased-Chander Bhan had suffered spinal injuries, which resulted into loss of consciousness, pain in the neck and sudden onset of quadriparesis i.e. weakness of all four limbs, resulting into loss of tone and pain and touch senses in his limbs. Ultimately the deceased-Chander Bhan expired on 08.06.1998. On account of death of Chander Bhan, his wife-Nirmal Kumari, claimant filed the claim petition claiming compensation to the tune of ₹20,00,000/-.

3. Upon notice, the respondents appeared and contested the claim petition. The driver and the owner of the offending vehicle denied the occurrence of any accident. It was denied that the four wheeler was being driven in a rash and negligent manner. The claim was contested by the Insurance Company as well, stating that the accident took place due to the fault of the claimants. It was also denied that claimants spent any amount on their treatment and they are entitled to claim compensation.

4. After hearing the pleadings of the parties, the MACT, Karnal framed issues on 17.04.1998. Subhash Sachdeva appeared as PW1 and reiterated that the accident took place due to the rash and negligent driving

of respondent No.1 and the appellant appeared as PW3. On appreciation of the evidence led by the parties, the Tribunal allowed compensation for a sum of ₹2,43,200/- to the claimant- Nirmal Kumari. The age of the deceased was considered as 47 years and multiplier of 11 was applied. Besides compensation of ₹2,11,200/-, she was allowed a sum of ₹7,000/- for loss of love and affection and ₹25,000/- for hospitalization and healthy diet.

5. Aggrieved against the inadequate compensation, the instant appeal has been filed.

6. Learned counsel for the appellant contends that the compensation, as allowed, is wholly inadequate and not in consonance with the judgment rendered by the Supreme Court of India in ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009***. It is contended that the husband of the appellant had suffered multiple injuries due to the accident which later on caused his death and has been allowed insufficient amount for medical expenses and other conventional heads like loss of consortium and loss of love and affection etc.

7. Per contra, learned counsel appearing on behalf of the respondents contends that adequate compensation has been allowed but he is not in a position to dispute the fact that insufficient amount has been awarded on account of medical expenses or nothing has been awarded for loss of consortium and loss of love and affection etc.

8. I have heard the learned counsel for the parties and have

perused the award and the pleadings.

9. There is no dispute about the factum of accident which took place on 08.10.1995 in which accident, the husband of the claimant died. The evidence on the record would establish that the death took placed on account of the injuries suffered in the accident. Therefore, the only question that remains to be determined is whether adequate compensation has been allowed or not.

10. In the opinion of the Court, the Tribunal while allowing compensation did not award adequate compensation on account of medical expenses and other conventional heads. The multiplier was taken as 11 which should be rather be taken as 13. It is an admitted fact that the husband of the appellant had undergone various treatments due to the fatal injuries which led to his death after three years

11. After taking into consideration the facts available on the record, the Court opines that apart from the hospital charges, the compensation towards medical expenses and other conventional heads is also insufficient, which ought to be enhanced. The compensation payable to the claimant as per judgment rendered in *National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009* is thus re-assessed as under:-

| Sr. No. | Heads of claim       | Calculation       |
|---------|----------------------|-------------------|
| 1       | Name of the deceased | Chander Bhan Jawa |
| 2       | Date of accident     | 08/10/95          |
| 3       | Age of the deceased  | 47 years          |

| Sr. No. | Heads of claim                                              | Calculation         |
|---------|-------------------------------------------------------------|---------------------|
| 4       | Monthly income of the deceased                              | 2400/- per month    |
| 5       | 25% of (iv) is to be added towards future prospects         | (2400+600)=3000/-   |
| 6       | Half of (v) above deducted towards personal expenses        | (3000-1500)=1500/-  |
| 7       | Compensation calculated after applying the multiplier of 13 | 1500x13x12=234000/- |
| 8       | Medical expenses                                            | 50000/-             |
| 9       | Conventional heads                                          | 70,000/-            |
| 10      | Total :                                                     | ₹3,54,000/-         |

12.           Consequently, the appeal is allowed. The appellant- Nirmal Kumari shall be entitled to enhanced compensation of ₹3,54,000/-, the amount in excess over and above what was awarded by the Tribunal will also attract interest @7.5% per annum from the date of the appeal till the date of payment.

October 22 , 2019

(JAISHREE THAKUR)  
JUDGE

seema

Whether speaking/reasoned  
Whether reportable

Yes.  
No.