

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

**FAO No.5739 of 2015
Date of decision: 08.07.2019**

Smt. Mehar Kaur

....Appellant

Versus

Sumit @ Mita and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Naveen Singh Panwar, Advocate,
for the appellant.

Ms. Vandana Malhotra, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Sonipat (hereinafter referred to as 'the Tribunal') vide award dated 17.07.2015 on account of death of Rampal in a motor vehicular accident which took place on 16.09.2013. Appellant is mother of deceased-Rampal.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 16.09.2013, Rampal (since deceased) was going to Sinipat, on a motorcycle bearing registration No. HR-10-P-7747. One Jagat Singh was also going along with Rampal on another motorcycle. At about 7.30 p.m., when Rampal reached ahead of turning point of village Mahra on Gohana-Sonipat road, a Tata Magic bearing temporary No. HR-99-PB(T)-3837 (now registration No. HR-69-B-

3479) being driven by Sumit @ Mita-respondent No.1 in a rash and negligent manner, came from the side of Sonipat and struck against his motorcycle, as a result of which, Rampal fell down and received injuries . He was taken to General Hospital, Sonipat, but he succumbed to the injuries on the way to hospital. With regard to the incident, FIR No.360 dated 16.09.2013, under Sections 279 & 304-A IPC was registered against respondent No.1 at Police Station, Sadar, Sonipat. 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 Jogender (PW-2), who was an eye witness of the accident. Claimant has also proved on record copy of charge sheet Ex.P1, report under Section 173 Cr.P.C. Ex.P2 and FIR Ex.P25.

Deceased-Rampal was working as driver in in Delhi Transport Corporation and as per salary certificate Ex.P3, he was drawing salary of Rs.28,430/- per month. As per driving licence Ex.P4 of deceased-Rampal, his date of birth was 04.04.1979. The accident had taken place on 16.09.2013. Hence, on the date of death/accident, deceased was aged about 34 years, 05 months and 12 days. Keeping in view the income of deceased, the Tribunal has awarded a sum of Rs.4,00,000/- as compensation in lump-sum. In addition to it, Rs.25,000/- have been awarded as funeral expenses. Hence, the claimant was found entitled to a total compensation of Rs.4,25,000/- along with interest at the rate of 7.5% 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.28,430/- per month
(ii)	10% of (i) above is deducted towards income tax	28,430 – 2843 = 25,587/-
(iii)	50% of (ii) above to be added as future prospects	25,587 + 12,793 = Rs.38,380/-
(iv)	50% of (iii) above is deducted as personal expenses of the deceased	38,380 – 19,190 = Rs.19,190/-
(v)	Compensation after multiplier of 16 is applied	Rs.19,190/- x 12 x 16 = Rs.36,84,480/-
(vi)	Compensation under the conventional heads	Rs.30,000/-
(vii)	TOTAL COMPENSATION AWARDED	Rs.37,14,480/-

(viii)	Enhanced amount of compensation	Rs.37,14,480 – 4,25,000 = Rs.32,89,480/-
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The enhanced amount of compensation of **Rs.32,89,480/-** 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

08.07.2019
ajp

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