

## Joginder Singh and Another Vs Ambala Bus Syndicate Private Limited

**Court:** High Court Of Punjab And Haryana At Chandigarh

**Date of Decision:** July 29, 2013

**Acts Referred:** Motor Vehicles Act, 1988 "Section 163A

**Hon'ble Judges:** Vijender Singh Malik, J

**Bench:** Single Bench

**Advocate:** Ashok Bector, for the Appellant; Pardeep Goyal, Advocate, for the Respondent

**Final Decision:** Allowed

### Judgement

Vijender Singh Malik, J.

This is an appeal brought by the claimants for enhancement of compensation. The claim petition had been brought

by the claimants u/s 163-A of the Motor Vehicles Act, 1988 (for short "the Act") on the death of Smt. Ranjit Kaur. Vide award dated

01.10.2010 learned Motor Accidents Claims Tribunal, Ropar (for short "the Tribunal") has assessed a sum of Rs. 2,64,000/- as compensation but

has awarded only 50% thereof holding that she herself was negligent at the time of the crossing of the road to the extent of 50%. Ranjit Kaur was

49 years old, a house wife, earning Rs. 3300/- per month. Accident took place on 05.02.2009 at 2.00 PM in the area of village Ranwan District

Fatehgarh Sahib. Ranjit Kaur alongwith her son Joginder Singh started from her house for going to village Sanghol for taking medicines. At about

2.00 PM she was standing on road near Gurdwara of village Ranwan in order to cross the road. She was standing on extreme left side of the road

on katcha berm. In the meanwhile, a bus bearing registration No. PB 12-H-7004 driven by respondent No. 2 came and struck against her. On

account of being hit, Ranjit Kaur suffered multiple injuries, which proved fatal. A sum of Rs. 25,00,000/- is claimed as compensation alleging that a

sum of Rs. 50,000/- was spent on the last rites.

2. The respondents have denied these averments.

3. Learned counsel for the appellants has contended that this is a case brought u/s 163-A of the Act where the claimants do not have to prove

negligence on part of anyone to maintain the claim petition. According to him, if negligence is not to be proved, then there was no question for the

Tribunal to have held the deceased responsible to the extent of 50% for the accident. He has, thus, submitted that 50% cut in the compensation

could not be applied by the Tribunal.

4. Learned counsel for the appellants has further submitted that even the Tribunal erred in adopting the multiplier. According to him, the deceased

was 49 years of age at the time of her death. For a victim, who died at the age of 49 years, the multiplier suggested by Hon"ble Supreme Court of

Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, . According to him, the annual dependency of Rs. 24,000/- as

assessed by the Tribunal should have been multiplied with 13 to find a sum of Rs. 3,12,000/- as the loss suffered by the claimants in the death of

Ranjit Kaur. According to him, some compensation under conventional heads should have been added by learned Tribunal.

5. Learned counsel for respondent No. 3, on the other hand, has submitted that learned Tribunal has rightly assessed the compensation and the

same is not liable to be interfered with.

6. Learned counsel for respondent No. 3, however, could not dispute the legal proposition that in a case u/s 163-A of the Act negligence is not to

be proved. The claim u/s 163-A of the Act requires proof of the death to have occurred during use of a motor vehicle. So far as the use of the

motor vehicle is concerned, the accident has occurred with bus No. PB-12-H-7004 and it is an accident leading to the death of Ranjit Kaur arising

during the use of the vehicle. So learned Tribunal has been wrong in deducting 50% of the amount assessed as compensation on account of the

fact that Ranjit Kaur herself was negligent while crossing the road.

7. Coming to the multiplier, Hon"ble Supreme Court of India in Smt. Sarla Verma's case supra has held multiplier of 13 to be appropriate for the

age group of 46 to 50 years. In this case Ranjit Kaur was 49 years of age and therefore the multiplier of 13 is adopted in this case.

8. Learned Tribunal has assessed Rs. 24,000/- as the annual dependency of the claimants and multiplying it with 13, I find a sum of Rs. 3,12,000/-

as the loss suffered by the claimants in the death of Ranjit Kaur. Adding to it, a sum of Rs. 9500/- in the name of loss of consortium, funeral

expenses and loss of estate as allowed by the second schedule, I find a sum of Rs. 3,21,500/- as compensation payable to the claimants on the

death of Ranjit Kaur. Consequently, the appeal succeeds and is allowed enhancing the compensation from Rs. 1,32,000/- to Rs. 3,21,500/-. The

same shall be payable to the claimants in the proportion and with interest as settled by the Tribunal in the award.