

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.4224 of 2001
Date of Decision: 06.11.2017

Rita and others

.....Appellants

Vs.

Suresh Kumar and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:-

Mr.Sanjay Vij, Advocate, for the appellants.

Mr.Neeraj Khanna, Advocate, with
Mr.Ravinder Arora, Advocate, for
respondent/Insurance company.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 11.09.2001, passed by the learned Motor Accident Claims Tribunal, Gurgaon (for short, 'the Tribunal') vide which compensation to the tune of Rs.3,90,000/- was awarded to the claimants on account of death of Jorawar Singh.

FACTS NOT IN DISPUTE

On 29.07.1999, Jorawar Singh coming from Delhi towards Gurgaon on Scooter No.DL-88-G-6445. The scooter was driven at a slow speed and on the correct side of the road when the scooter reached near Jawla Petrol Pump on National Highway No.8, suddenly, a TATA Sumo No.HR-26-J-3485 came from the side of Delhi at a very high speed and in a rash and negligent manner driven by respondent No.2 and hit the scooter

from behind. On account of the accident, Jorawar Singh fell down from the

scooter and sustained grievous injuries. The accident was witnessed by Vinod Kumar and Shri Rahaul. He was removed to General Hospital, Gurgaon, from where he was referred to Safdarjang Hospital, Delhi, but he died in the way. A case vide FIR No.226 dated 30.07.1999 under Section 279/337/304-A IPC was registered with Police Station, DLF Qutab Enclave Gurgaon.

Respondent No.3-Rajesh Kumar who was driver of the offending vehicle has not been examined in this case. The matter could best be explained by him but he chooses to keep away from the witness box, rather than to rebut the claim of the claimants and preferred to remain exparte. Therefore, it is held that the conclusion can easily be drawn that the accident had occurred due to rash and negligent driving of driver of offending vehicle i.e. Rajesh Kumar-respondent No.2.

COMPENSATION ASSESSED BY MACT

The learned Tribunal has held that the age of the deceased was 26 years as per his postmortem report. The factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company. The compensation has been assessed by learned Tribunal as under:-

Sr.No.	Heads of compensation	Amount
1	Income (Rs.3,000 p.m.)	Rs.36,000/- per annum
2.	Deduction 1/3	Rs.36,000/- Rs.12,000/ = Rs.24,000/-
4.	After applying the multiplier 16 the total dependency	Rs.24000 X 16= Rs.3,84,000/-
5.	Funeral Expenses	Rs.6,000/-
	Total	Rs.3,90,000/-

Learned counsel for the claimant-appellant contends that the

compensation awarded by the Tribunal is on the lower side and deserves to be enhanced in view of the judgments of **National Insurance Company Ltd. Vs. Pranay Sethi and others SLP(C) 25590 of 2014 decided on 31.10.2017** and **Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77**. He further submits that the loss of consortium awarded by the Tribunal is on the lower side and further nothing has been awarded towards love and affection to parents, who were fully dependent upon the deceased. On the other hand, the learned counsel for the respondents have vehemently opposed the present appeal.

RE-ASSESSED COMPENSATION

I have heard learned counsel for the parties and perused the record.

It is not in dispute that the offending vehicle was fully insured with the Insurance company. Since the deceased was a driver, as such, his income has to be taken as a skilled labourer. Following the ratio of law laid down by Hon'ble the Supreme Court in the above mentioned judgments, the compensation has to be re-assessed as follows:-

Sr.No.	Heads of compensation	Amount
1	Income	Rs.3,000 p.m.
2.	Future prospect(40%)	Rs.3,000/- + Rs.1200/-= Rs.4200/-
4.	Deduction ¼ th	Rs.4200/- - Rs.1050/-= Rs.3150
5.	Annual loss of dependency after applying the multiplier	Rs.3150/- X 12X 17= Rs.6,42,600/-
5.	Conventional heads in view of the judgment mentioned above	Rs.70,000/-
	Total	Rs.7,12,600/-
	Enhanced amount of	Rs.7,12,600/- ----- Rs.3,90,000/-

	compensation	=Rs.3,22,600/-
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Resultantly, the enhanced amount of compensation of Rs.3,22,600/- shall be payable within a period of forty five days from the date of receipt of certified copy of this order. The enhanced amount of compensation shall carry interest @9% 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 a case of **Kumari Kiran through her father Harinarayan vs. Sajjan Singh and others, 2015(1) SCC 539**. Remaining conditions of disbursal of amount shall remain unaltered. With the aforesaid modification in the impugned award, the appeal is allowed to the above extent.

(RITU BAHRI)
JUDGE

06.11.2017
anil

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