

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.1734 of 2014

Date of Decision: 16.11.2017

Komal and others

.....Appellants

Vs.

Gurmeet Singh and others

.....Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.M.S.Khillan, Advocate, for the appellants.

Mr.Sandeep Goyal, Advocate, for respondents No.1 and 2.

Mr.Naveen Chopra, Advocate, for respondent/Ins.Co.

RITU BAHRI, J. (ORAL)

CM No.5965-CII of 2014

For the reasons stated in the application, delay of 9 days in filing the appeal is condoned.

Application stands disposed of.

Main Case

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 30.08.2013, passed by the learned Motor Accident Claims Tribunal, Karnal (for short, 'the Tribunal') vide which compensation to the tune of Rs.7,49,400/- was awarded to the claimants on account of death of Sandeep Kumar.

FACTS NOT IN DISPUTE

On 01.12.2010, Naresh Kumar son of Karan Singh was standing in front of National Seeds Corporation Godown Hansi Road, Karnal. Sh.Sandeep Kumar son of Ram Jawari was driving the motor cycle No.HR-05-Q-6728 and on Parveen was also coming on motor cycle from behind, in the meantime, a truck bearing registration No.HR-23-3354 came from Karnal side which was being driven by respondent No.1 in a very high speed, rashly and negligently and hit into Parveen Kumar and also hit in the

motor cycle of Sandeep Kumar and crossed the truck over the legs of Parveen and also crossed over the motor cycle of Sandeep and after this, the offending truck dashed against the Indica car bearing No.HR-06-N-2084. Due to this impact, deceased received serious multiple and grievous injuries on his chest as well as on various parts of his body and died due to the serious injuries received in the accident. A formal FIR No.1018 dated 01.12.2010 for the offence under Sections 279, 337 and 304-A IPC was registered at Police Station, City, Karnal.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased-Sandeep Kumar as per his postmortem report was 21 years old at the time of accident and the claimants failed to produce on the record any documentary evidence regarding income of the deceased. The factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company.

Sr.No.	Heads of compensation	Amount
1	Income as skilled labourer	Rs.5,000/-
2.	Deduction 1/3rd	Rs.5,000/- --- Rs.1600/- = Rs.3400/-
3.	Annual loss of dependency after applying the multiplier	Rs.3400/- X 12 X 18= Rs.7,34,400/-
4.	Transportation and exquisites	Rs.10,000/-
5.	Loss of consortium	Rs5,000/-
	Total	Rs.7,49,400/-

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 judgment "**Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77'; National Insurance Company Ltd. Vs. Pranay Sethi and others SLP(C) 25590 of 2014 decided on 31.10.2017.** Learned counsel 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.

Learned counsel for the appellants submits that as per income tax return for the year 2010-2011 Ex.PW3/A, the deceased was a civil construction worker and specialist in erecting of all kinds of towers etc. and his income was 1,78,580/- for a year or Rs.14,000/- per month approximately. PW-3 Om Pal submitted that income tax return for the year 2010-11 was available in his office, hence, the same could not be relied upon. Since the deceased was 21 years of age and his last three income tax was not filed and the sole income tax was filed by him at the rate of Rs.10,000/- per month and keeping in view the judgment of Supreme Court in **V. Mekala vs M. Malathi & Anr CIVIL APPEAL NO. 4880 OF 2014 (Arising out of SLP(C) No. 16561 of 2013)**, the income of the deceased is taken as Rs.10,000/- per month.

It is not in dispute that the offending vehicle was fully insured with the Insurance company. 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	Salary per month	Rs.10,000/- per month
2.	Future prospect (40%)	Rs.10,000/- + Rs.4,000/-= Rs.14000/-
3.	Loss of dependency (1/3rd) (as per judgment Pranay Sethi (Supra))	Rs.14000/- --- Rs.4667/-= Rs.9333/-
4.	Annual loss of dependency after applying multiplier	Rs.9333/- X 12 X 18= Rs.20,15,928/-
7	Conventional heads (as per judgment Pranay Sethi (Supra))	Rs.70,000/-
	Total	Rs.20,85,928/-
	Enhanced compensation	Rs.20,85,928/- --- Rs.7,49,400/-= Rs.13,36,528/-

Resultantly, the enhanced amount of compensation of Rs.13,36,528/- 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

16.11.2017
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No