

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.290 of 2014 (O&M)

Date of Decision: 06.11.2017

Kulwinder Kaur and ors.

.....Appellants

Vs.

Sumit Kumar and Ors.

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:-

Mr.Kamal Narula, Advocate,
for the appellants.

Mr.P.K.Bajaj, Advocate, for respondents No.1 and 2.

Mr.Suvir Dewan, Advocate, for respondent No.3.

RITU BAHRI, J. (ORAL)

CM No.935-CII of 2014

This application has been filed for condonation of 156 days delay
in filing the present appeal.

Reply has been filed by learned counsel for the
respondent/Insurance Company. The same is taken on record.

For the reasons stated in the application, delay of 156 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 23.02.2013, passed by the learned
Motor Accident Claims Tribunal, Ferozepur (for short, 'the Tribunal') vide

which compensation to the tune of Rs.5,39,948/- was awarded to the

claimants on account of death of Harbhajan Singh.

FACTS NOT IN DISPUTE

On 29.03.2012, the deceased -husband of claimant No.1-Kulwider Kaur and father of claimants No.2 and 3 namely Mangal Singh and Gurjit Singh respectively was driving his motor cycle bearing registration No.PB-05K-3226, Mangal Singh-claimant No.2 was pillion rider. They were going towards their home at Basti Amar Singh Wali after completing the work from Ferozepur. His uncle Kulwant Singh was following them. When they reached one kilometer from village Lumbriwala, one swift car of white colour bearing registration No.PB-60-A-8022 was being driven by respondent Sumit Kumar without giving any horn and without having any light signal, at very high speed, in rash and negligent manner, hit the motor cycle of Harbhajan Singh, as result of which he and Mangal Singh fell down from the motor cycle on the side of the road. Both of them were badly injured. His uncle Kulwant Singh called ambulance and got them admitted in Baghi Hospital, Ferozepur where Harbhajan Singh was declared dead. A formal FIR No.23 dated 30.03.2012 was also registered against the respondent-Sumit Kumar under Section 304-A, 279,337/427 IPC.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 48 years old 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	Rs.5000/-

2.	Loss of dependency (1/3)	Rs.5,000 --- Rs.1667= Rs.3333/-
4.	Annual loss of dependency after applying the multiplier	Rs.3333/- X 12 X13= Rs.Rs.5,19,948/-
5.	Funeral Expenses	Rs.5,000/-
6.	Loss of Estate	Rs.5,000/-
7.	Consortium	Rs.10,000/-
	Total	Rs.5,39,948/-

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 **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.

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	Income	Rs.5000/-
2.	Future Prospect (25%)	Rs.5000/- + Rs.1250/-= Rs.6250
3.	Loss of dependency (1/3)	Rs.6250/- --- Rs.2083= Rs.4167/-
4.	Annual loss of dependency after applying the multiplier	Rs.4167/- X 12 X13= Rs.6,50,052/-

5.	Other conventional heads as per latest judgment of National Insurance Co. supra.	Rs.70,000/-
	Total	Rs.7,20,052/-
	Enhanced amount of compensation	Rs.7,20,052/- ----- Rs.5,39,948/- = Rs.1,80,104/-

Resultantly, the enhanced amount of compensation of Rs.1,80,104/- 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