

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.158 of 2016

Date of Decision: 08.12.2017

Alka Goyal

.....Appellant

Vs.

S.Mohan and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.G.S.Bhasin, Advocate,
for the appellant.

Mr.Sachin Ohri, Advocate, for respondent No.3

Mr.APS Pakka, Advocate, for respondents No.4 and 5.

Mr.Harah Aggarwal, Advocate, for respondent No.6.

Mr.M.B.Jain, Advocate, for respondent No.9.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 30.09.2015, passed by the learned Motor Accident Claims Tribunal, Bathinda (for short, 'the Tribunal') vide which compensation to the tune of Rs.21,71,500/- was awarded to the claimants on account of death of Ashok Kumar Goyal.

FACTS NOT IN DISPUTE

On 03.09.2011, the deceased Aseem Goyal along with claimant Alka Goyal, Ashok Kumar Goyal, Aditi Goyal and other two persons were going from Bathinda to Raman Mandi in Maruti Van No.GJ, 6DG-7881, which was being driven by Rajiv Kumar Goyal and Rajbir Singh were followed

reached on Refinery Road near Sekhu Sukhlandi Link crossing then on truck tralla No.HR-46-B-5013 were going in front of the Van No.GJ-6DG-7881. The van was driven by S.Mohan in a rash and negligent manner, and at a very high speed. The driver os said Tralla, suddenly applied the brakes of the Tralla and from the front side another Tralla No.RJ-21-G-3159 were coming and the driver of the said truck Tralla was driven by respondent No.8 in a rash ad negligent manner as a result of which, the above said Van struck with Truck No.HR-46-B-5013 from behind and the said Tralla No.RJ21-G-3159 struck with the said van from front side. The accident took place due to rash and negligent driving of all the three drivers. Aditi Goyal, Ashok Kumar Goyal, Aseem Goyal and claimant received multiple fatal injuries on their persons and Aditi Goyal, Aseem Goyal died at the spot due to the out of the use of the motor vehicle as above mentioned and Ashok Kumar was shifted to Civil Hospital, Bathinda then Bharat Brain Hospital, Bathanda, then DMC, Ludhiana and lastly in Adesh Hospital Bathinda and later on he died on 08.12.2011 in Adesh Hospital due to injuries sustained in above said accident. The Police registered the FIR Ex.C2against the respondents No.1,4 and 8 on the statement of Rajiv Kumar Goyal, who was following the deceased on his Zen Car at that time.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 44 years old as per his hospital records 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. The learned Tribunal had assessed the compensation as under:

Sr.No.	Heads of compensation	Amount
1	Income Rs.5,000/-p.m.	Rs.60,000/- per annum
2.	Deduction 1/3 rd	Rs.60,000/- --- Rs.20,000/- Rs.40,000/- p.a.
3.	Total loss of dependency after applying the multiplier	Rs.40,000/- X 14= Rs.5,60,000/-
4.	Loss of consortium	Rs.1,00,000/-
5.	Funeral Expenses	Rs.25,000/-
6.	Loss of estate	Rs.25,000/-
7.	Love and affection	Rs.25,000/-
8.	Medical expenses Ex.C-03 to Ex.3-612	Rs.13,61,500/-
9	Special diet	Rs.25,000/-
10.	Pain and suffering	Rs.25,000/-
	Total	Rs.21,46,500/-

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 of **National Insurance Company Ltd. Vs. Pranay Sethi and others SLP(C) 25590 of 2014 decided on 31.10.2017**. 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. In view of the above mentioned judgment, the compensation has to be re-assessed as follows:-

Sr.No.	Heads of compensation	Amount
1	Income Rs.10,000/-p.m.	Rs.1,20,000/- per annum
2.	Deduction 1/2 rd	Rs.1,20,000/- --- Rs.60,000/- Rs.60,000/- p.a.
3.	Future prospects 25% as per judgment Pranay Sethi (Supra)	Rs.60,000/- + Rs.15,000/- Rs.75,000/-

4.	Total loss of dependency after applying the multiplier	Rs.75,000/- X 14= Rs.10,50,000/-
5.	Medical expenses Ex.C-03 to Ex.3-612	Rs.13,61,500/-
6.	Conventional heads	Rs.70,000/-
	Total	Rs.24,81,500/-
	Enhanced amount of compensation	Rs.24,81,500/- --- Rs.21,46,500/- =Rs.3,35,000/-

Resultantly, the enhanced amount of compensation of Rs.3,35,000/- 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

08.12.2017
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No