

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.6304 of 2013

Date of Decision:- 11.12.2017

Shakuntla Devi and others

.....Appellants

Versus

Suresh Kumar and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr.Durgesh Aggarwal, Advocate, for the appellants.

Mr.Rahul Deswal, Advocate, for respondent No.1 and 2.

Mr.Satpal Dhamija, Advocate, for respondent No.3.

RITU BAHRI, J. (Oral)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 12.04.2013, passed by the learned Motor Accident Claims Tribunal, Karnal (for short, 'the Tribunal') vide which compensation to the tune of Rs.4,11,000/- was awarded to the claimants on account of death of Jagmal Singh.

FACTS NOT IN DISPUTE

On 10.12.2010, the deceased Jagmal Singh, Mewa Devi, Darsho Devi and Rinku were standing on the kacha portion of the road of Pucca Khera Mor and were waiting for the bus for going to village Pandhana, Tehsil District Karnal, then a truck bearing registration No.HR33E-0358 driven by the respondent No.1 in a rash and negligent manner, came from the side of Karnal and struck against them by coming on the wrong side of the road. All the aforesaid persons received multiple serious and greivous injuries on the various parts of their bodies and they shifted to Civil Hospital, Karnal. Al the abovesaid injured succumbed to the injuries suffered by them in the accident. The accident was witnessed by one Vinod Kumar son of Sham Lal. An FIR No.413/10 for the offence under Sections 304-A, relating to the Police Station, Nissing has been registered.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 58 years old as per his postmortem report Ex.P-1/Ex.P6 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	Salary per month (as skilled worker)	Rs.4500/-p.m.
2.	Deduction 1/3 rd	Rs.4500/- --- Rs.1500/-= Rs.3000/-
3.	Total loss of dependency yearly after applying the multiplier	Rs.3,000/- X 11 X 12= Rs.3,96,000/-
4.	Transportation and exquisites	Rs.10,000/-
5.	Loss of consortium	Rs.5,000/-
	Total	Rs.4,11,000/-

RE-ASSESSED COMPENSATION

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

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.

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 (as skilled worker)	Rs.4500/-p.m.

3.	Deduction 1/3 rd	Rs.4500/- --- Rs.1500/-= Rs.3000/-
4.	Total loss of dependency yearly after applying the multiplier	Rs.3,000/- X 11 X 12= Rs.3,96,000/-
5.	Conventional heads as per larger Bench judgment as per judgment Pranay Sethi (Supra)	Rs.70,000/-
	Total	Rs.4,66,000/-
	Enhanced amount of compensation	Rs.4,66,000/- ---- Rs.4,11,000/-= Rs.55,000/-

Resultantly, the enhanced amount of compensation of Rs.55,000/- 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.

11.12.2017
anil

(RITU BAHRI)
JUDGE

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