

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.7723 of 2014

Date of Decision: 10.11.2017

Mangori Devi @ Meghudi and Ors.

.....Appellants

Vs.

Tara Chand & Anr.

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Bhavna Grewal, Advocate, for
Mr.S.K.Yadav, Advocate, for the appellants.

Mr.Vikas Mohan Gupta, Advocate, for respondent/Ins. Co.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 08.05.2014, passed by the learned Motor Accident Claims Tribunal, Narnaul (for short, 'the Tribunal') vide which compensation to the tune of Rs.5,87,000/- was awarded to the claimants on account of death of Tara Chand son of Pala Ram in a road accident.

FACTS NOT IN DISPUTE

On 06.11.2013, a vehicle Scorpio bearing No.HR-99-RG (Temp) 1552, being driven by its driver/respondent No.1 at a high speed, in a rash, negligent, zig zag manner and without following the rules of the road, came from Satnali side and directly hit Tara Chand and crushed him, as a result thereof, Tara Chand suffered multiple grievous and fatal injuries due to which Tara Chand succumbed to his injuries and Parkash Singh son of Leela Ram resident of village Balana witnessed the accident. As per appellants, the accident has been caused by respondent while driving Scorpio bearing No.HR-99-RG(Temp) 1552 at a high speed and in a rash and negligent manner. A criminal case bearing FIR No.190 dated 07.11.2013, under Section 279/304-A was registered regarding this accident

in Police Station, Satnali.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 40 years old as per his postmortem report Ex.PW1/A 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.2-Insurance Company.

Sr.No.	Heads of compensation	Amount
1	Salary per month	Rs.4500/-
2.	Deduction 1/4th	Rs.4500 --- Rs.1125= Rs.3375/-
3.	Annual loss of dependency after applying multiplier	Rs.3375/- X 12 X 14= Rs.5,67,000/-
4.	Loss of consortium	Rs.10,000/-
5.	Funeral expenses and last rites	Rs.10,000/-
	Total	Rs.5,87,000/-

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 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.

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 per unskilled labourer at that time)	Rs.5500/- per month
2.	Future prospect (25%) as per judgment Pranay Sethi (Supra)	Rs.5500/- + Rs.1375/-= Rs.6875/-
3.	Deduction 1/4th	Rs.6875/- ---- Rs.1719/-= Rs.5156/-
4.	Annual loss of dependency after applying the multiplier	Rs.5156/- X 12 X 14= Rs.8,66,208/-
5.	Conventional heads, as per judgment Pranay Sethi (Supra)	Rs.70,000/-
	Total	Rs.09,36,208/-
	Enhanced compensation	Rs.09,36,208/- ---Rs.5,87,000 = Rs.3,49,208/-

Resultantly, the enhanced amount of compensation of Rs.3,49,208/- 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

10.11.2017
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No