

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.8577 of 2014 (O&M)

Date of Decision: 14.12.2017

Laxmi Devi

.....Appellants

Vs.

Puran Singh and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.J.S.Cooner, Advocate,
for the appellants.

Ms.Vandana Malhotra, Advocate,
for respondent/Insurance Company.

RITU BAHRI, J. (ORAL)

CM No.23411-CII of 2014

For the reasons stated in the application, delay of 797 days in filing the appeal is condoned.

Application stands disposed of.

Main Case

Present appeal has been preferred by the claimant-appellant (for short 'the appellants'), against award dated 28.03.2012, passed by the learned Motor Accident Claims Tribunal, Patiala (for short, 'the Tribunal') vide which compensation to the tune of Rs.2,80,000/- was awarded to the claimants on account of death of Pawan Kumar.

FACTS NOT IN DISPUTE

On 15/16 December. 2008, deceased Pawan Kumar alias Sanju was going from Naraingarh to his village Berkheri on his bicycle after binding iron rods for lying linter. When he reached on the culvert within the area of village Khanpur, then respondent Puran Singh while driving his truck No.HR-37-C-0633 came from behind and he dashed the truck into the bicycle of the deceased while driving the same in a rash and negligent manner as a result of which deceased was badly injured and the truck driver ran away after the accident and the deceased died at the spot on account of injuries sustained by him in the accident. An FIR No.247 dated 16.12.2008

under Section 279/304-A of the IPC was registered at Police Station Naraingarh District Ambala.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 23 years old as per postmortem report 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 compensation has been assessed as under :-

Sr.No.	Heads of compensation	Amount
1	Income per month after deducting 50% on personal expenses	Rs.2250/- X 12= Rs.27,000/- per annum.
2.	Loss of dependency after applying the multiplier	Rs.27,000/- X 10= Rs.2,70,000/-
3.	Funeral Expenses	Rs.5,000/-
4.	Love and affection	Rs.5,000/-
	Total	Rs.2,80,000/-

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**". 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.4500/- per month
2.	Future prospect (40%)	Rs.4500/- + Rs.1800/-= Rs.6,300/-

3.	Deduction 50%	Rs.6300/- --- Rs.3150/-= Rs.3,150/-
4.	Total loss of dependency after applying the multiplier	Rs.3,150/- X 12 X 18= Rs.6,80,400/-
5.	Conventional heads	Rs.30,000/-
	Total	Rs.7,10,400/-
	Enhance amount of compensation	Rs.7,10,400/- -----Rs. 2,80,000/- =Rs.4,30,400/-

Resultantly, the enhanced amount of compensation of Rs.4,30,400/- 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

14.12.2017
anil

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