

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.8370 of 2015 (O&M)

Date of Decision: 20.11.2017

Jaspal Singh and others

.....Appellants

Vs.

Rattan Singh and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Gurcharan Dass, Advocate,
for the appellant.

Mr.Gurinder Jit Singh, Advocate, for respondent No.1.

Mr.R.C.Kapoor, Advocate, and
Mr.Pardeep Sharma, Advocate, for
respondent/Insurance Company.

RITU BAHRI, J. (ORAL)

CM No.26430-CII of 2015

For the reasons stated in the application, delay of 243 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 06.09.2014, passed by the
learned Motor Accident Claims Tribunal, Patiala (for short, 'the Tribunal')
vide which compensation to the tune of Rs.18,85,000/- was awarded to the
claimants on account of injury suffered by her.

FACTS NOT IN DISPUTE

On 11.02.2013, the appellant was sitting on the pillion seat of
motorcycle bearing registration No.PB-39B-9205. Her husband Daljit singh

was driving the said motorcycle at a moderate speed and on the left side of the road. When they reached in the area of village Rajgarh on Banur Tepla road, a care bearing registration No.PB-65R-5175 being driven by respondent No.1 rashly and negligently and came from opposite side and dashed into their motorcycle. On account of the said accident, the appellant and her husband had fallen down on the road and they have received multiple injuries on their body. Since the deceased Daljit Singh was in critical condition, he was referred to PGI Chandigarh but he succumbed to his injuries in the night of 11.02.2013. An FIR No.18 dated 11.02.2013 under Sections 279, 337, 338, 427, 304-A IPC was registered at P.S.Shambu.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 52 years old as per his postmortem report and the claimants had produced 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. The factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company. On the basis of the same, compensation has been assessed as under:

Sr.No.	Heads of compensation	Amount
1	Income	Rs.21,000/- X 12-Rs.2,52,000 p.a.
2.	Income tax	Rs.2,52,000/- --12,000= Rs2,40,000/-
3.	Deduction 1/3rd	Rs.2,40,000/- Rs.80,000/-= 1,60,000/-
4.	Total loss of dependency after applying the multiplier	Rs.1,60,000/- X 11= Rs.17,60,000/-

5.	Loss of consortium	Rs.1,00,000/-
5.	Love and affection claimant No.1 and 3	Rs.20,000/-
6.	Loss of estate	Rs.5,000/-
	Total	Rs.18,85,000/-

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 "**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.21,000/- X 12=Rs.2,52,000 p.a.
2.	Income tax	Rs.2,52,000/- --12,000=Rs.2,40,000/-
3.	Deduction 1/3rd	Rs.2,40,000/- - Rs.80,000/- =Rs.1,60,000/-
3.	Future prospect 10%future prospect as per judgment Pranay Sethi (Supra)	Rs.1,60,000/+ Rs.16,000/-= 1,76,000/-
4.	Total loss of dependency after applying the multiplier	Rs.1,76,000 X 11= Rs.19,36,000/-
5.	Loss of consortium	Rs.1,00,000/-
5.	Love and affection claimant No.1 and 3	Rs.20,000/-
6.	Loss of estate	Rs.5,000/-

	Total	Rs.20,61,000/-
	Enhanced amount of compensation	Rs.20,61,000--Rs,18,85,000/- Rs.1,76,000/-

Resultantly, the enhanced amount of compensation of Rs.1,76,000/- 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

20.11.2017
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No