IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.551 of 2003
Date of Decision:21.05.2018

Gurvinder Kaur @ Ginni and others ....Appellants

Vs.

M/s Dhariwal Roadways Pvt. Ltd. And others ....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.H.S.Rakhra, Advocate, for the appellants.

Mr.Lalit Pathak, Advocate, for respondent No.1.

Mr.Suvir Dewan, Advocate, for respondent/Insurance Company.

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RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 03.09.2002, passed by the learned Motor Accident Claims Tribunal, Hoshiarpur (for short, 'the Tribunal') vide which compensation to the tune of Rs.6,93,000/- was awarded to the claimants on account of death of Satibir Singh who died in the motor vehicular accident.

FACTS NOT IN DISPUTE

On 10.12.1998, Satbir Singh was driving the car from Mohali to Maur Mandi to meet his friend. Gurvinder Kaur-claimant No.1 his wife was sitting on the front seat, whereas the children were sitting on the rear seat of the car. When they had crossed Phaggu Wala Rai that the offending bus No.PB-13C-8325 was found coming from the front side at a fast speed, and it was driven by respondent No.2 Mumtaj Ali rashly and negligently and hit the car which was being driven by the deceased on the proper side of the road. The rulled down and came on the katcha side of the road. Satbir Singh received multiple injuries on his person and driver of the bus fled from their . Satibir Singh had died at the spot. A bearing FIR No.173 dated 10.12.1998 was registered at Police Station Bhawanigarh for the offences punishable under Sections 279/304-A and 427 IPC.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 31 years old and the claimants have produced on the record any documentary evidence regarding income of the deceased i.e. income tax return for assessment year 1998-99 where, the total income was shown as Rs.97,166/-. After deducting certain expenditures the net profit of Sh.Satbir singh was Rs.65,000/- per annum 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	Income	Rs.65,000/- per annum
2.	Deduction 1/3rd	Rs.65,000/- --- Rs.21,667/-= Rs.43,334/- per annum
3.	Annual loss of dependency after applying multiplier	Rs.43,334/- X 16= Rs.6,93,344/- rounded off Rs.6,93,000/-
	Total	Rs.6,93,000/-

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.

Income is taken as per income tax return for the assessment years 1998-99. Keeping in view the above mentioned judgment, the compensation has to be re-assessed as follows:-

Sr.No.	Heads of compensation	Amount
1	Income	Rs.97,166/- per annum
2.	Future prospect 40%	Rs.97,166/- + Rs.38866/-= Rs.1,36,032/-
3.	Deduction 1/3rd	Rs.1,36,032/- ---Rs.45,344/-= Rs.90,688/-

4.	Total dependency after applying correct multiplier	Rs.90,688/- X 16= Rs.14,51,008/-
5.	Conventional heads	Rs.70,000/-
	Total	Rs.15,21,008
	Enhanced amount of compensation	Rs.15,21,008/- ----Rs.6,93,000/- = Rs.8,28,008/-

Resultantly, the enhanced amount of compensation of Rs.8,28,008/-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 @ 7.5% 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 **Shri Nagar Mal and Ors Vs. The Oriental Insurance Company Ltd. And ors. in Civil Appeal No.448 of 2018**. 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

21.05.2018
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No