

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No. 794 of 2002

Date of decision:- 22.02.2018

National Insurance Co. Ltd.

...Appellant

Versus

Ram Kali and Others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Suveer Diwan, Advocate,
for the appellant.

Mr. Nagar Singh, Advocate, for
Mr. A. S. Virk, Advocate,
for respondent Nos. 8 and 13.

RITU BAHRI J. (Oral)

The present appeal has been filed by the appellant against the Award dated 22.9.2001 passed by Motor Accident Claims Tribunal, Kurukshetra, whereby claimants have been awarded with compensation of Rs.3,51,400/- on account of death of Gurnam Singh in a road accident which took place on 03.01.1998.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 03.01.1998, Gurnam Singh, Since deceased, was crossing the GT road near Sanjay Punjabi Dhaba for going to his fields. At that time, his brother Prem Singh was with him. After Prem Singh had crossed the road, his brother Gurnam Singh was behind him. A Truck bearing registration No.HNU-9589 which was loaded with sugarcane was standing in the middle of the road. Truck No. DNG-0621 reached there from the side of Pipli. It was going towards Ambala. This

truck was being driven by its driver-respondent no.2 rashly and negligently. After seeing truck, Gurnam Singh stopped on the back side of truck No.HNU9589 which was wrongly parked there by its driver-respondent no.1. In the meantime, respondent No. 2 dashed the truck No.DNG0621 against truck No.HNU-9589, as a result of which Gurnam Singh was injured and he died at the spot. The accident was caused because of fault of respondents No.1 and 2 who were drivers of truck No.HNU9589 and DNG-0621, respectively. The truck No. HNU9589 was owned by respondent No. 7 and it was insured with respondent no. 8. Truck No. DNG 0621 was owned by respondent No.3 and was insured with respondent No.6. In this matter, an FIR has been lodged under Sections 279/283/304-A of IPC in the police Station. Consequently, Claimants filed the claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had been caused on account of rash and negligent driving of respondents while driving offending vehicle. Claimants submits that at the time of accident, deceased was 35 years of age and was earning Rs.2,550/- per month by running a Khokha.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimants. No income proof has been found hence Tribunal took income of the deceased as @ Rs.2,550/- per month being a unskilled labourer. Hence, compensation awarded by the Tribunal as under :

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.2,550/- per month

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(ii)	1/3 rd deducted towards personal expenses	Rs.2550-850=1700/- per month
(iii)	After applying appropriate multiplier by the Tribunal amount of compensations comes to	Rs.1700X12X16=3,26,400/-
(iv)	Compensation towards funeral expenses	Rs.10,000/-
(v)	Compensation towards loss of consortium	Rs.15,000/-
	Total Compensation Awarded	Rs.3,51,400/-

Feeling dissatisfied with the impugned award, appellant has preferred the present appeal.

I have heard learned counsel for the parties and perused the case file.

REASSESSED COMPENSATION

The fact of accident is admitted and proved by the statement of PW2- Prem Singh,FIR, Challan, Ex.P2 filed under Section 173 CR.P.C. Registered both the drivers of truck No. HNU 9589 and DNG-0621 involved in the accident as alleged and held that the accident in question took place due to rash and negligent driving of both the truck drivers. Keeping in view the facts and circumstances of the case insurance company is liable to pay the compensation amount to the claimants. In the peculiar facts and circumstances of the case, to meet the ends of justice and compensation awarded by the Tribunal is also requires to be reassessed keeping in view the judgments passed by Hon'ble the Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017),*** and income of the deceased took by the Tribunal i.e. Rs.2550/- needs to be reassessed as per the Minimum Wages Act and reassessed amount of compensation as under:

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.3000/- per month
(ii)	1/4 th deducted towards personal expenses	Rs.3000-750=2,250/- P.M.
(iii)	40% added towards future prospects	Rs.2250+900=3150/-
(iv)	Multiplier applied	Rs.3150X12X16=6,04,800/-
(V)	Compensation towards conventional heads	Rs.70,000/-
	Total Compensation Awarded	Rs.6,74,800/-
	Enhanced amount of compensation	Rs. 6,74,800-3,51,400=3,23,400/-

The enhanced amount of compensation of **Rs.3,23,400/-** shall be payable within a period of two months from the date of receipt of certified copy of this order. As per the judgment of Hon'ble Supreme Court in case **Shri Nagar Mal and Ors versus The Oriental Insurance Company Ltd. And Ors decided on 19.01.2018** the enhanced amount of compensation shall carry interest @ 7.5% per annum from the date of filing of the claim petition, till its realization.

Remaining conditions of disbursal of amount shall remain unaltered.

Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

22.02.2018

(RITU BAHRI)
JUDGE

Riya Grover

Whether speaking/reasoned
Whether reportable

Yes
No