

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

FAO No.2325 of 2003

Date of Decision: 17.05.2018

Harpalo and others

.....Appellants

Vs.

Kulwant Singh and others

.....Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**

**Present:-** Mr.Kulwant Singh Dhanora, Advocate, for the appellant.

Mr.R.S.Mamli, Advocate, for the respondent No.2.

Mr.Ajit Sihag, Advocate, for respondent No.3.

Mr.Neeraj Khanna, Advocate, and  
Mr.Ravinder Arora, Advocate, for respondent No.5.

Mr.Assem Aggarwal, Advocate, for  
Mr.Harsh Aggarwal, Advocate, for respondent No.6.

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**RITU BAHRI, J. (ORAL)**

Present appeal has been preferred by the claimant-appellant (for short 'the appellant'), against award dated 10.02.2003, passed by the learned Motor Accident Claims Tribunal, Hisar (for short, 'the Tribunal') vide which compensation to the tune of Rs.1,75,000/- was awarded to the claimants on account of death of Ram Saran.

**FACTS NOT IN DISPUTE**

On 05.08.1998, the claimant Raj Kumar alongwith Ram Saran deceased had purchased buffaloes from Fatehabad. They loaded the buffaloes in truck No.HR-39/4171 on payment of hire for carrying to Hapur (UP). Raj Kumar as well as Ram Saran were also travelling in the same truck HR-39/4171 being driven by respondent No.1 Kulwant Singh. The truck No.HR-39/4171 was driven rashly and negligently by respondent No.1 despite the fact that he was advised to take care by Raj Kumar and Ram Saran deceased but he did not pay any heed. At about 11:30 p.m./12:00 am

in the night, the truak No.HR-39/4171 reached near BSF Centre, Hisar when another truck No.HR-38/1526 came from the opposite side. Both the trucks colluded with each other to rash and negligent driving of respondent No.1 where by the petitioner Raj Kumar and Ram Saran and buffaloes received injuries. Ram Saran and buffaloes succumbed to their injuries. Raj Kumar was taken to General Hospital, Hisar, where he received treatment. An FIR No.470 under Section 279/337/304-A, 427/429 IPC was registered in Police Station Sadar, Hisar against respondent No.1.

**COMPENSATION ASSESSED BY MACT**

A perusal of Award shows that the liability was fastened in the ration of 50: 50 on both the set of vehicles as the evidence brought on record accordingly shows that the accident has taken place due to contributory negligence of both the set of trucks i.e. HR-39/4171 and HR-38/1526. 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                                                  | Rs.2100/- per month                   |
| 2.     | Deduction 1/3 <sup>rd</sup>                             | Rs.2100/- --- Rs.700/-=<br>Rs.1400/-- |
| 3      | Annual loss of dependency after applying the multiplier | Rs.1400/- X 12 X 10=<br>Rs.1,68,000/- |
| 4.     | Transportation                                          | Rs.2,000/-                            |
| 5.     | Loss of consortium                                      | Rs.5,000/-                            |
|        | Total                                                   | Rs.1,75,000/-                         |

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 of **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 judgment, the compensation has to be re-assessed as follows:-

| Sr.No. | Heads of compensation                                   | Amount                                        |
|--------|---------------------------------------------------------|-----------------------------------------------|
| 1      | Income                                                  | Rs.2100/- per month                           |
| 2.     | Future prospect 10%                                     | Rs.2100/- + Rs.210/- =Rs.2310/-               |
| 3.     | Deduction 1/3 <sup>rd</sup>                             | Rs.2310 --- Rs.770/- = Rs.1540/--             |
| 4      | Annual loss of dependency after applying the multiplier | Rs.1540/- X 12 X 11 = Rs.2,03,280/-           |
| 5.     | Conventional heads                                      | Rs.70,000/-                                   |
|        | Total                                                   | Rs.2,73,280/-                                 |
|        | Enhanced amount of compensation                         | Rs.2,73,280/- --- Rs.1,75,000/- = Rs.98,280/- |

Resultantly, the enhanced amount of compensation of Rs.98,280/- 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

17.05.2018

anil

*Whether speaking/reasoned Yes/No*

*Whether reportable Yes/No*