

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.1664 of 2005

Date of Decision: 22.03.2018

Smt.Parveen and another

.....Appellants

Vs.

Gokul Dolai and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- None for the appellants.

Mr.Prashant Gupta, Advocate for respondent No.3-
Insurance Company.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 17.12.2004, passed by the learned Motor Accident Claims Tribunal, Rohtak (for short, 'the Tribunal') vide which compensation to the tune of Rs.3,75,000/- was awarded to the claimants on account of death of Subhash.

FACTS NOT IN DISPUTE

On 15.02.2001, the deceased Subhash was going from Sidhipur, District Jhajjar to Garh Mukteshwar (U.P.) in Maruti Car bearing No. HR-11/3230 (hereinafter called the ill fated car). In the meantime , a truck bearing registration No. WB/15-3665 (hereinafter called the offending truck) came from the opposite side from the side of Simbhawali town being driven by respondent No.1 at high speed and in a zigzag manner. Respondent No. 1 could not control the offending truck. Consequently, it dashed into the ill fated car and caused the accident in question. Due to the impact of the accident, deceased Subhash and other occupants of the ill fated car, received fatal injuries. Subhash was shifted to Madhu Nursing

Home, Hapur and then he was referred to AIIMS, Delhi. He remained

admitted there till 20.02.2001. On that day, he had expired. It is further the case of the petitioners that formal FIR No.29 dated 15.02.2001 was registered against respondent No.1 at Police Station Simbhawali, under Sections 279, 337, 338, 427 IPC and later on Section 304-A IPC was added therein. It is further the case of the petitioners that the age of deceased Subhash at the time of his death was about 28 years.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 28 years old 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.

Sr. No.	Heads	Amount
1	Income as per unskilled labourer	Rs.2500 per month
2	Annual loss of dependency	Rs.2500X12=30,000/-p.m.
3	Deduction 1/3 rd	Rs.30,000-10,000=20,000/- p.a.
4	Total loss of dependency after applying multiplier	Rs.20,000 X 18=3,60,000/-
5	Loss of consortium	Rs.5,000/-
6	Transportation and cremation charges	Rs.5,000/-
7	Treatment	Rs.5,000/-
	Total amount	Rs.3,75,000/-

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 "**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	Salary per month	Rs.2500/-
2.	Future prospects @ 40%	Rs.2500+1000=3500/-
3.	Deduction 1/3 rd	Rs.3500-1166=2334
4.	Total loss of dependency after applying multiplier	2334x12x17=Rs.4,76,136
5.	Conventional heads	Rs.70,000
6.	Medical expenses	Rs.5,000
	Total	Rs.5,51,136/-
	Enhanced amount of compensation	Rs.5,51,136-3,75,000 Rs.1,76,136/-

Resultantly, the enhanced amount of compensation of Rs.1,76,136/- 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

22.03.2018

Anjal

Whether speaking/reasoned Yes/No

Whether reportable Yes/No