

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O No. 4140 of 2007
Date of decision:- 18.04.2018

Pavitra Rani and Anr ...Appellants

Versus

Rakesh Singla and Others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Karan Nehra, Advocate,
for the appellants.

Mr. Neeraj Khanna, Advocate,
for Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Sangrur (hereinafter referred to as 'the Tribunal') vide award dated 27.11.2006, on account of death of Mandeep Garg in a motor vehicular accident which took place on 28/29.12.2004.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 28/29.12.2004, Mandeep Garg, since deceased, was traveling in the car alongwith Ravinder Kumar and Navdeep and they were going in Maruti Car No. PB-44A-7362 driven by Jaspal Singh respondent No.2 from Sunam to Delhi, the car hit a truck parked in the middle of the road which was not seen due to the fog. Due to this impact, Mandeep Garg died at the spot. In this regard, an FIR got

registered as Ex. P4 which shows that accident has taken place as stated by Ravinder Kumar AW1 and truck driver fled from the scene.

Consequently, claimants-appellants filed a 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 negligent driving of offending vehicle by respondent No.1. Claimants deposed that at the time of accident/death, deceased was 30 years of age and he was earning Rs.40,000/- per annum being proprietor of M/s Garg Auto Parts, Cinema Road, Sunam. This finding was rightly given on the basis of FIR, and other documentary evidence led by the claimants. Tribunal took income of the deceased at Rs.2,000/- per month and as per the second schedule of the motor vehicle Act, Tribunal awarded lump sum amount of the compensation as Rs.2,72,000/- to the claimants and the claimants are entitled to recover from the respondents jointly and severally as the car was owned by respondent No.1 and was insured with respondent No.3 as per policy Ex. P5.

Feeling dissatisfied with the impugned award, the claimant-appellants have preferred the present appeal.

Learned Counsel for the appellant argued that Tribunal assess the income of the deceased on lower side and to prove this facts, Suresh Kumar appeared as AW2 and deposed that he was working as Part time Accountant with Mandeep Garg and has stated that he prepared the accounts for the year 2003-04 Ex P1 and for the year 2004-05 Ex. P2 from the account books and the income of the deceased was Rs.44671/- for the year 2003-2004 and Rs.

51439.50 for the period from 1.4.2004 to 26.12.2004.

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

REASSESSED COMPENSATION

The fact of accident is admitted and proved. Parties are not in dispute with regard to findings given upon issue No.1 that accident occurred due to use of Car No. PB-44A-7362.

Keeping in view facts and circumstances, income taken by the Tribunal requires to be reassessed as per Ex. P1, Ex.P2 as well as deposition of Suresh Kumar as AW2.

In the present case, income of the deceased assessed as Rs.40,000/- per annum as per the said exhibits and keeping in view the ratio laid down in Second Schedule of Motor Vehicles Accident Act, compensation reassessed by this Court as under :-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Income as per Ex. P1 and Ex. P2	Rs. 40,000/-Per annum
(ii)	Multiplier applied	Rs.40,000X18= 7,20,000/-
(iii)	Compensation towards conventional heads as per II nd Schedule	Rs. 9,500/-
	Total reassessed compensation	Rs.7,29,500/-
	Total Enhanced amount of Compensation	Rs. 7,29,500-2,72,000=4,57,500/

The enhanced amount of compensation of **Rs.4,57,500** /- 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.

18.04.2018

Riya Grover

(RITU BAHRI)

JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>