

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.2428 of 2008
Date of Decision:20.04.2018

Sandip Kaur and others

.....Appellants

Vs.

Gurprit Singh and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.M.S.Thiara, Advocate, for the appellants.

Mr.Harah Aggarwal, Advocate, for respondent/Insurance Co.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimant/appellants (for short 'the appellants'), against award dated 17.01.2008, passed by the learned Motor Accident Claims Tribunal, Hoshiarpur (for short, 'the Tribunal') wherein claim petition was filed by the appellant/claimants has been dismissed.

On 24.08.2005 at about 10:30 am. Deceased Harpal Singh was coming to his village Sikri after buying household articles from village Adda Saran on his scooter bearing No.PB-07-N-4376, who was followed by his father and uncle Gian Singh on a separate scooter. When he reached near Petrol Pump of Natinowal Vaid, a Uno Car bearing registration No.DL-8CF-6636 (hereinafter to be referred as the offending vehicle) came at a high speed. It was driven by respondent No.1 Gurprit Singh in a rash negligent manner who struck it against the scooter driven by deceased Harpal Singh as a result of which he sustained multiple injuries and while taking to CMC

Hospital, Ludhiana, he succumbed to his injuries. A perusal of the Award shows that after the accident A DDR was got registered by father of the deceased Krishan Singh Ex.A02 Copy of the entry No.19 dated 24.08.2005 made in the Daily Diary Register of the Police Station, Bullowal. The claim petition has been dismissed on the ground that father of the deceased Krishan Singh AW-4 has given different version in the DDR. He stated before the police that his son had met with an accident all of a sudden while overtaking the Jeep and nobody else was responsible for the said accident wherein his son Harpal Singh lost his life. While he appearing before the Tribunal, he has stated that accident took place on account of rash and negligent driving of respondent No.1 i.e. driver of the car. At the same time, version given by driver-Respondent No.1 stated that while he was coming from the opposite side an animal came on the road or in order to save the animal another jeep which was coming on the other side, slightly struck against the scooter of Harpal Singh due to which reason, he had sustained injuries.

Since no FIR was registered by the Kishan Singh but a DDR report was sufficient to prove that the accident had taken place while Harpal Singh was overtaking the Jeep. Since the car was coming from the opposite side and in order to save the animal, the driver of the car met with accident with Harpal Singh (deceased), as such, keeping in view the conclusion above, there was case of head on collision in which deceased can be also held to be liable to the extent of 50%. Claim petition cannot be dismissed simply on the ground that in the Tribunal, Kishan Singh has changed his version in the case. Hence, the claim petition deserves to be allowed. In

compensation which are as under:-

Sr.No.	Heads of compensation	Amount
1	Income	Rs.2500/- per month. X 12=Rs.30,000/- per annum
2.	Deduction 1/3rd	Rs.30,000/- --- Rs.10,000/-= Rs.20,000/-
3.	Total loss of dependency after applying the multiplier (28 years)	Rs.20,000/- X 16= Rs.3,20,000/-
4.	Funeral Expenses	Rs.1500/-
5.	Loss of consortium	Rs.3,000/-
6.	Loss of estate	Rs.1500/-
	Total	Rs.3,26,000/-

Learned counsel for the claimant-appellants contends that the claim petition of the claimants has been dismissed by the Tribunal it should have been allowed 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.

I have heard learned counsel for the parties and perused the record.

It is not in dispute that the offending vehicle was not 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	Income	Rs.2500/- per month. X 12=Rs.30,000/- per annum
2.	Future prospect 40%	Rs.30,000/- + 12000/-= Rs.42,000/-
2.	Deduction 1/3rd	Rs.42,000/- --- Rs.14,000/-= Rs.28,000/-
3.	Total loss of dependency	Rs.28,000/- X 16= Rs.4,48,000/-

	after applying the multiplier (28 years)	
4.	Conventional heads	Rs.70,000/-
	Total	Rs.5,18,000/-
	Contributory negligence 50%	Rs.5,18,000/---Rs.2,59,000/-= Rs.2,59,000/-

Resultantly, the enhanced amount of compensation of Rs.2,59,000/- 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

20.04.2018
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No