

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.2625 of 2009

Date of Decision: 20.04.2018

Sarita Kapoor and others

.....Appellants

Vs.

Gopal Krishan and another

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Ms.Amandeep Kaur, Advocate, for the appellant.

Mr.Vinod Gupta, Advocate, for
respondent/Insurance Company.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the appellant/claimants (for short 'the appellant'), against award dated 27.01.2009, passed by the learned Motor Accident Claims Tribunal, Chandigarh (for short, 'the Tribunal') vide which compensation to the tune of Rs.3,74,600/- was awarded to the claimants on account of death of Ramesh Kapoor in a motor vehicular accident.

FACTS NOT IN DISPUTE

On 30.09.2006, the deceased was crossing the road very carefully near the chowk of Sectors 29/30/31/32, in the meantime, a Maruti Zen Car bearing No.CH-03-E-8005, which was being driven by respondent No.1 in a rash and negligent manner without blowing horn, struck against the deceased, due to which the deceased fell on the road and sustained grievous injuries. He was removed to the Government Medical College and Hospital, Sector 32, Chandigarh for treatment, where he succumbed to his injuries on 01.10.2006. The FIR No.385 dated 30.09.2006 (Ex.P1) was registered on the statement of Constable Satpal, who was present at the place of accident being on petrol duty.

COMPENSATION ASSESSED BY MACT

Learned Tribunal has taken the age of the deceased as 59 years at the time of accident and Rs.19,950/- has been taken as income of the deceased as he was working as Store Keeper in the office of Central Pultry Development Corporation(NR), Industrial Area, Chandigarh. Factum of accident had been proved and the offending vehicle was insured with respondent-Insurance Company (herein). The compensation has been assessed as under:

Sr.No.	Heads of compensation	Amount
1	Income of the deceased	Rs.19,950/- per month.
2.	Deduction 1/3rd.	Rs.19,950/- --- Rs.6650/-= Rs.13,300/-
3	Total loss of income annually	Rs.13,300/- X 12 -Rs.1,59,600/-
4.	Total lump sum payment	Rs.2,00,000/-
5.	Consortium	Rs.10,000/-
6.	Expenditure on funeral expenses	Rs.5,000/-
	Total	Rs.3,74,600/-

Learned counsel for the claimant-appellants 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, learned counsel for the respondent/Insurance Company has opposed in the present appeal.

COMPENSATION REASSESSED

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. Keeping in view judgment referred above, the compensation has to be re-assessed as follows:-

Sr.No.	Heads of compensation	Amount
1	Income of the deceased	Rs.19,950/- per month.
2	Future prospect 15%	Rs.19,950/+ Rs.2993/-= Rs.22,943/-

2.	Deduction ¼ th	Rs.22,943/- Rs.17,207/-	---	Rs.5736/-=
3	Total loss of income annually	Rs.17,207/- 9=Rs.18,58,356/-	X	12 X
4.	Conventional heads	Rs.70,000/-		
	Total	Rs.19,28,356/-		
	Enhanced amount of compensation	Rs.19,28,356/- Rs. 3,74,600/- = Rs.15,53,756/-		-----

Resultantly, the enhanced amount of compensation of **Rs.15,53,756/-** 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 Limited and Others passed in Civil Appeal No.448 of 2018**. Remaining conditions of disbursal of amount shall remain unaltered. Keeping in view that appellant/claimants No.2 and 3 were 28 years and 25 years, the enhanced amount of compensation has been given to appellant-Sarita Kapoor. 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