

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.3812 of 2009

Date of Decision: 20.04.2018

National Insurance Company Ltd.

.....Appellant

Vs.

Smt.Roshni Devi and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.D.R.Bansal, Advocate, for the appellant.

Mr.Paramjit Jakhar, Advocate, for respondents No.1 and 2.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the appellant/Insurance Company (for short 'the appellant'), against award dated 15.04.2009, passed by the learned Motor Accident Claims Tribunal, Hisar (for short, 'the Tribunal') vide which compensation to the tune of Rs.3,84,400/- was awarded to the claimant on account of death of Mukesh in a motor vehicular accident.

On 04.10.2005, at about 2:30 PM Mukesh Kumar (deceased) was coming from Hyderabad to Gurgaon in car bearing registration No.BRW-1 and when he reached in the area of Town Budani in front of Gate of TTC Farm Budani District Sihor on National Highway No.69, a truck bearing registration No.HR-38D, 4092 being driven by respondent No.1 in a very rash and negligent manner came from the front side and struck in the car of Mukesh. Due to this impact Mukesh received multiple grievous injuries on his person and died at the spot. The accident was witnessed by Hari Shanker

Chauhan. The accident took place due to the rash and negligent manner of respondent No.1. Thereafter, FIR (Ex.P1) has been recorded against respondent No.1.

As per version of the PW-2 Hari Shankar Chauhan how tendered his affidavit as Ex.PW2/A in his evidence. He stated that on 04.10.2005 at about 2:00 pm, Mukesh Kumar (deceased) was coming from Hyderabad side in car bearing registration No.BRW-1 and when he reached in the area of Town Budani in front of Gate of TTC Farm Budani District Sihor on National Highway No.69, a truck bearing registration No.HR-38D, 4092 being driven by respondent No.1 in a very rash and negligent manner came from the front side and struck in the car of Mukesh. Due to this impact Mukesh received multiple grievous injuries on his person and died at the spot. The accident took place due to rash and negligent manner of respondent No.1. He witnessed the accident in question and Fir Ex.P1 was registered on his statement. He also proved copy of site plan Ex.P2 and report under Section 173 of Cr.P.C. Ex.P7. So, it is proved that accident took place on account of rash and negligent driving of respondent No.1 and there is no need to interfere on the finding given by learned Tribunal on the issue no.1.

Learned counsel for the appellant/Insurance Company has made his second argument regarding multiplier applied by the learned Tribunal i.e. 13 is on the higher side. It has been observed by the learned Tribunal that deceased was 25 years old at the time of accident. Factum of accident had been proved and the offending vehicle was insured with appellant-Insurance Company (herein). The compensation has been assessed as under:

Sr.No.	Heads of compensation	Amount
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1	Income of the deceased	Rs.3600/- per month.
2.	Deduction 1/3rd.	Rs.3600/- --- Rs.1200/-= Rs.2400/-
3	Total loss of income after applying the multiplier	Rs.2400/- X 12 X 13=
4.	Transportation and funeral expenses	Rs.10,000/-
	Total	Rs.3,84,400/-

The learned counsel for the appellant/Insurance Company have vehemently opposed the present appeal as multiplier has been applied on the higher side. On the other hand, learned counsel for the claimant-respondents 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.**

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.3600/- per month.
2.	Future prospect 40%	Rs.3600/- + 1440/-=Rs.5040/-
2.	Deduction 50%	Rs.5040 --- Rs.2520/-= Rs.2520/-
3	Total loss of income after applying the multiplier	Rs.2520/- X 12 X 18= Rs.5,44,320/-
4.	Conventional heads	Rs.30,000/-
	Total	Rs.5,74,320/-
	Enhanced amount of compensation	Rs.5,74,320/- ---- Rs.3,84,400/- =Rs.1,89,920/-

Resultantly, the enhanced amount of compensation of **Rs.1,89,920/-** 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. With the aforesaid modification in the impugned award, the appeal is dismissed to the above extent.

(RITU BAHRI)
JUDGE

20.04.2018

anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No