

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.2935 of 2012
Date of Decision: 12.03.2018

Teema Devi and Others

.....Appellants

Vs.

Niranjan and Others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.S.S.Khurana, Advocate for the appellants.

Mr.Vishal Aggarwal, Advocate, for
respondent/Insurance Company.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 13.01.2012, passed by the learned Motor Accident Claims Tribunal, Rewari (for short, 'the Tribunal') vide which compensation to the tune of Rs.9,25,000/- was awarded to the claimants on account of death of Sanjay Kumar.

FACTS NOT IN DISPUTE

On 04.11.2010, the deceased Sanjay Kumar had started for his Capara Company from his house on his motorcycle. At about 2:30 p.m., when he reached at Rudh bridge, a Pick-up vehicle bearing registration No.HR-55-0736 driven by respondent No.1 in a rash and negligent manner and at a very high speed came from behind and struck against his motorcycle. Due to the heavy impact, the deceased had sustained serious and multiple injuries on his vital organs. He was taken to CHC Bawal by Laxman son of Kanwar Singh, resident of village Mundiya Khera. Ultimately, the deceased had succumbed to the injuries on 5.11.2010. A criminal case bearing FIR No.207 dated 04.11.2010 was registered for commission of offences punishable under Sections 279, 304-A of IPC at

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 25 years old as per matriculation certificate of the deceased Ex.P1, 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 of compensation	Amount
1	Income as skilled labourer	Rs.6,000/-
2.	Deduction on personal expenses 1/4th	Rs.6,000/- ---- Rs.1500/-= Rs.4500/-
3.	Annual loss of dependency	Rs.1400/- X 12= Rs.54000/-
4.	After applying multiplier	Rs.54,000X 17= Rs.9,18,000/-
5.	Loss of consortium	Rs.5,000/-
6.	Last rites	Rs.2,000/-
	Total	Rs.9,25,000/-

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 respondent/Insurance Company 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	Income as skilled labourer	Rs.6,000/-
2.	Future prospect 40%	Rs.6000/- + Rs.2400/-= Rs.8400/-
3.	Deduction on personal	Rs.8400/- ---- Rs.2100/-=

	expenses 1/4th	Rs.6300/-
4.	Annual loss of dependency after applying the multiplier	Rs.6300/- X 12 X 18= Rs.13,60,800/-
5.	Conventional heads	Rs.70,000/-
	Total	Rs.14,30,800/-
	Enhanced amount of compensation	Rs.14,30,800/- --- Rs.9,25,000/- =Rs.5,05,800/-

Resultantly, the enhanced amount of compensation of Rs.5,05,800/- 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

12.03.2018
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No