

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-6001-2012 (O&M)

Date of decision: 31.05.2018

Siri Chand through his LRs and another

...Appellants

V/s.

Saddam and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Ram Bilas Gupta, Advocate for the appellants.

Mr. Suman Jain, Advocate for insurance co.

RITU BAHRI, J. (Oral).

CM-5667-CII-2018

Application for early hearing of the matter is allowed and the case is taken up on Board today itself.

FAO-6001-2012

The claimants have come up in appeal against the award dated 03.05.2012 passed by Motor Accident Claims Tribunal, Palwal (for short 'the Tribunal') whereby they have been awarded a compensation of Rs.2,40,000/- on account of death of their son Om Parkash who died in a road accident that took place on 07.10.2010.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 07.10.2010, Om Parkash was going for morning walk along with his friends namely Gaurav, Harish and Krishan Kumar. When Om Parkash alongwith his friends was approximately at a distance of one kilometer from his village Durgapur, a

dumper bearing registration No. HR-38Q-3544 being driven by respondent No. 1 rashly and negligently came and hit Om Parkash and his friends. Om Parkash succumbed to his injuries during treatment.

Consequently, the claimant-appellants filed a claim petition before the Tribunal.

With regard to the alleged accident, an FIR No. 401 dated 07.10.2010 (Ex.P2) under Sections 279, 337, 304-A IPC at Police Station Sadar Palwal was registered against the driver of the offending vehicle.

COMPENSATION ASSESSED BY THE MACT

The parties are not in dispute with regard to finding on issue No. 1 that the accident took place on account of rash and negligent driving by respondent No. 1. This finding has been rightly given keeping in view that the FIR (Ex.P2) was registered against respondent No. 1 and he was facing trial. The claimants have also placed on record postmortem report (Ex.P1), copy of FIR (Ex.P2) and copies of bills (Ex.P3 to Ex.P7).

The deceased was 23 years of age and was unmarried at the time of the accident. The Tribunal has assessed the compensation as under:-

HEADS	CALCULATIONS
Income	Rs.4000
50% deduction for personal expenses	4000-2000=2000
Annual income	2000 X 12 = 24,000
Compensation after multiplier of 9	24000 X 9=2,16,000
Funeral and transportation expenses	10,000
Medical expenses	13,500
TOTAL COMPENSATION AWARDED	Rs. 2,39,500 i.e. Rs.2,40,000 (in round figure)

Hence, the claimants were found entitled to total compensation of Rs.2,40,000/- along with interest @ 7% per annum from the date of filing

of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-appellants have preferred the present appeal.

REASSESSED COMPENSATION

The fact of accident is admitted and proved. Finding of negligence has rightly been given by the Tribunal and it does not require any interference on that account. In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed in view of the judgments passed by Hon'ble the Supreme Court in *Sarla Verma and others vs. Delhi Transport Corporation and another*, 2009 (3) RCR (Civil) Page 77, *National Insurance Company Limited Vs. Pranay Sethi and others*, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017) and the minimum wages prevalent in the State of Haryana in the year 2010:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.4500
(ii)	40% future prospects	4500+1800=6300
(iii)	½ deduction for personal expenses	6300-3150=3150
(iv)	Compensation after multiplier of 18 applied	3150 X 12 X 18=680400
(v)	Conventional head	Rs. 30,000
(vi)	TOTAL COMPENSATION AWARDED	Rs. 7,10,400/-
(vii)	ENHANCED AMOUNT OF COMPENSATION	Rs.7,10,400-2,40,000= Rs.4,70,400/-

The enhanced amount of compensation of **Rs.4,70,400/-** shall be payable within a period of two months 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 the case of “*Shri Nagar Mal and others V/s. The Oriental*

Insurance Company Ltd. and others in Civil Appeal No. 448 of 2018.”

Remaining conditions of disbursal of amount shall remain unaltered.

Accordingly, the award stands modified to the above extent and the present appeal is allowed.

(RITU BAHRI)
JUDGE

May 31, 2018
Divyanshi

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No