

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.1285 of 2013

Date of Decision:11.05.2018

Smt.Ramrati @ Murti and others

.....Appellants

Vs.

Pintu Tanwar and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:-

Mr.Vikas Kumar, Advocate, for
Mr.Y.P.Singh, Advocate, for the appellants.

Mr.Punit Jain, Advocate, for respondent/Insurance Co.

RITU BAHRI, J. (ORAL)

CM No.7693-CII of 2013

For the reasons stated in the application, delay of 99 days in filing the appeal is condoned.

Application stands disposed of.

FAO No.1285 of 2013

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 08.08.2012, passed by the learned Motor Accident Claims Tribunal, Bhiwani (for short, 'the Tribunal') vide which compensation to the tune of Rs.6,73,648/- was awarded to the claimant on account of death of Om Parkash in a motor vehicular accident.

FACTS NOT IN DISPUTE

On 13.07.2011, the deceased Om Parkash and claimant-Ramrati were going to General Hospital, Bhiwani for taking medicine from Auto Rikshaw No.HR-61-9072 which was being driven by deceased Om Parkash when it was hit by the offending Crane from behind which was being driven

by respondent No.1. As a result of this, Om Parkash suffered injuries and died. An FIR (Ex.P4) has been registered with regard to this accident.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 55 years old as per his postmortem report 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. The compensation has been assessed as under:

Sr.No.	Heads of compensation	Amount
1	Income as per daily wages	Rs.5733/- per month
2.	Deductin 1/7th	Rs.5733/- p.m. ----Rs.819/-= Rs.4914/- per month
3.	Total annual dependency after applying correct multiplier	Rs.4914./- p.m. X 12 X 11=Rs.6,48,648/-
4.	Transportation	Rs.5,000/-
5.	Funeral expenses	Rs.10,000/-
6.	Consortium	Rs.10,000/-
	Total	Rs.6,73,648/-

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 passed in SLP (Civil) No.25590 of 2014.** On the other hand, the learned counsel for the respondents have vehemently opposed the present appeal.

RE-ASSESSED COMPENSATION

I have heard learned counsel for the parties and perused the

record.

A perusal of the Award shows that claimant/appellant has remained in hospital from 18.09.2013 to 30.09.2013 and after being discharged he continued to visit the hospital for follow up treatment. It is further proved that the injuries have also left him permanently disabled to the extent of 10% on account of decreased range of motion of right knee with surgical scar marks.

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 judgment, the compensation has to be re-assessed as follows:-

Sr.No.	Heads of compensation	Amount
1	Income as per daily wages	Rs.5733/- per month
2	Future prospects 10%	Rs.5733/- + Rs.573/=-Rs.6306/-
2.	Deduction 1/7th	Rs.6306/- ----Rs.901/=- Rs.5405/- per month
3.	Total annual dependency after applying correct multiplier	Rs.5405/- p.m. X 12 X 11=Rs.7,13,460/-
4.	Conventional heads	Rs.70,000/-
	Total	Rs.7,83,460/-
	Enhanced amount of compensation	Rs.7,83,460/- --- Rs.6,73,648/- =Rs.1,09,812/-

Resultantly, the enhanced amount of compensation of Rs.1,09,812/- 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 allowed to the above extent.

(RITU BAHRI)
JUDGE

11.05.2018
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No