

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.10618 of 2014
Date of Decision: 27.03.2018

Harjinder Kaur

.....Appellant

Vs.

Sarabjit Singh and anr.

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Vaibhav Goel, Advocate, for
Mr.Dheeraj Mahajan, Advocate, for the appellant.

Mr.H.S.Kaler, Advocate, for
Mr.Gurcharan Dass, Advocate, for respondent No.3.

RITU BAHRI, J. (ORAL)

CM No.29149-CII of 2014

Delay of 861 days in filing the appeal is condoned subject to the
condition that the claimant shall not be granted interest for 861 days.

Application stands disposed of.

Main Case

Present appeal has been preferred by the claimant-appellant (for
short 'the appellant'), against award dated 05.05.2012, passed by the learned
Motor Accident Claims Tribunal, Gurdaspur (for short, 'the Tribunal') vide
which compensation to the tune of Rs.4,96,000/- was awarded to the
claimant on account of death of Gurdip Singh in a motor vehicle accident.

FACTS NOT IN DISPUTE

On 20.05.2010, the deceased Gurdip Singh was on his scooter
No.PB-58-B-2866 Bajaj Chetak alongwith his daughter was returning from
village Ghuman after doing their personal works. Sukhnidhan Singh s/o
Sh.Sukhdev Singh resident of Bhagowal, Tehsil Batala, alongwith his cousin

Rajodh Singh s/o Sh.Gurpal Singh were also accompanying him on his own

motorcycle. When they reached ahead Kandiala Morh, then a three wheeler bearing No.PB-06J-2366 came from the opposite side being driven by respondent No.1 Sarabjit Singh in a very high speed, rashly and negligently and without blowing horn. He struck the same in the scooter of the deceased. Deceased sustained multiple grievous injuries on the head, arms and legs. The deceased was brought to the Civil Hospital, Batala, after making arrangement of conveyance by Sukhnidhan Singh and Rajjodh Singh, from where he was referred to Guru Nanak Dev Hospital, Amritsar. FIR No.52 dated 22.05.2010 under Sections 304-A/279/427 IPC was got registered at Police Station Ghuman on the statement of Sukhnidhan Singh s/o Sh.Sukhdev Singh r/o Bhagowal, Tehsil Batala, District Gurdaspur.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 28 years old as per postmortem report Ex.P-1 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.2-Insurance Company.

Sr.No.	Heads of compensation	Amount
1	Income	Rs.3500/- p.m.X 12= Rs.42,000/- per annum
2.	Deduction on personal expenses 1/3 rd	Rs.42,000/- --- Rs.14,000/-= Rs.28,000/-
3.	Annual loss of dependency after applying the multiplier.	Rs.28000/- X 17 =Rs.4,76,000/-
4.	Loss of love and affection	Rs.10,000/-
5.	Loss of consortium	Rs.5,000/-
6.	Funeral expenses	Rs.5,000/-
	Total	Rs.4,96,000/-

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 respondents have vehemently opposed the present appeal.

RE-ASSESSED COMPENSATION

I have heard learned counsel for the parties and perused the record.

As per version of AW-1 Smt.Harpal Kaur, at the time of death, deceased Gurdip Singh was 28 years old and was doing work of Halwai at Baroda. Hence, the income of the deceased is taken as per skilled worker for assessing the compensation.

The Tribunal held that the deceased was 28 years old 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.2-Insurance Company.

Sr.No.	Heads of compensation	Amount
1	Income	Rs.4500/- p.m.X 12= Rs.54,000/- per annum
2.	Future prospect 40%	Rs.54,000/- p.a. + Rs.21,600/-= Rs.75,600/-
3.	Deduction 1/3 rd	Rs.75,600/- ---- Rs.25,200/-= Rs.50,400/-
3.	Annual loss of dependency after applying the multiplier.	Rs.50,400/- X 17 =Rs.8,56,800/-
4.	Conventional heads	Rs.70,000/-
	Total	Rs.9,26,800/-
	Enhanced amount of compensation	Rs.9,26,800/- ---- Rs.4,96,000/- =Rs.4,30,800/-

Resultantly, the enhanced amount of compensation of Rs.4,30,800/- 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

27.03.2018
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No