

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.1401 of 2014
Date of Decision: 26.02.2018

Prabhati Lal and others

.....Appellants

Vs.

Har Lal and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Ashok Kumar Jindal, Advocate, for the appellants.

Mr.R.C.Kapoor, Advocate, for respondent/Insurance Co.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 01.07.2013, passed by the learned Motor Accident Claims Tribunal, Narnaul (for short, 'the Tribunal') vide which compensation to the tune of Rs.2,90,000/- was awarded to the claimants on account of death of Lali Devi.

FACTS NOT IN DISPUTE

On 01.08.2012, Lali Devi along with her son Vikas, her daughter-in-law Manju devi and her grand daughter Ritika (since deceased) was going on Mahindra tractor No.HR-35F-9231 from her village to Lahroda to being fodder for their cattle and the said tractor was being driven by appellant Vikas on his left hand side and at a normal speed and at about 1:00 p.m. when the said tractor alongwith trolley reached village Nangal Sirohi, little ahead of Kherki turn, then one truck bearing No.Hr-14E-9919 came from opposite side i.e. from Narnaul side, which was being driven by its driver respondent No.1 Har Lal at a very high speed and in a rash and negligent manner and hit the tractor trolley while going on wrong side and dragged the tractor trolley and as a result of the accident, Lali /devi and Ritika sustained serious injuries and Ritika died at the spot itself and Lali Devi and Ritika were taken to General Hospital, Narnaul where Lali Devi was medicolegally

referred to higher centre and thereafter she was taken to SMS Hospital, Jaipur where she got treatment as indoor patient and was operated upon but on 03.08.2012, she expired due to the injuries sustained by her in the accident.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased-Lali Devi was 45 years old as per his PMR Ex.P3 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	Rs.1500/- X 12=Rs.18,000/- per annum
2.	Annual loss of dependency after applying the multiplier	Rs.18,000/- X 14=Rs.2,52,000/-
3	Medical bills Ex.P4 to Ex.P6 and Ex.P7 to Ex.P37	Rs.18,000/-
4	Loss of consortium	Rs.10,000/-
5	Funeral and last rites	Rs.10,000/-
	Total	Rs.2,90,000/-

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.

Since the accident took place on 01.08.2012 and deceased Lali Devi is a house wife, as such her notional income is taken as Rs.6500/-p.m. for assessing the compensation and no cut shall be imposed.

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	Notional income as per minimum wages	Rs.6500/- p.m. X 12=Rs.78,000/- per annum
2.	Annual loss of dependency after applying the multiplier	Rs.78000/- X 14=Rs.10,92,000/-
3	Medical bills Ex.P4 to Ex.P6 and Ex.P7 to Ex.P37	Rs.18,000/-
4	Conventional heads	Rs.70,000/-
	Total	Rs.11,80,000/-
	Enhanced amount of compensation	Rs.11,80,000/- ---- Rs.2,90,000/- = Rs.8,90,000/-

Resultantly, the enhanced amount of compensation of Rs.8,90,000/- 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

26.02.2018
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No