

**HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO No.3051 of 2013 (O&M)

Date of Decision: 21.02.2018

Smt.Rajni Sharma and Ors.

.....Appellants

Vs.

Babu Ram and Ors.

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.R.C.Gupta, Advocate, for the appellants.

Mr.Rakesh Bakshi, Advocate, for respondents No.1 and 2.

Mr.Arun Sharma, Advocate, for
Mr.T.K.Joshi, Advocate, for respondent No.3.

RITU BAHRI, J. (ORAL)

CM No.13439-CII of 2013

For the reasons stated in the application, delay of 48 days in refiling the appeal is condoned.

Application stands disposed of.

Main Case

Present appeal has been preferred by the claimant-appellant (for short 'the appellant'), against award dated 22.08.2012, passed by the learned Motor Accident Claims Tribunal, Ambala (for short, 'the Tribunal') vide which compensation to the tune of Rs.6,47,500/- was awarded to the claimants on account of death of Surjit Singh alias Surjit Kumar alias Surjeet Lal.

FACTS NOT IN DISPUTE

On 02.11.2010, the deceased Surjit Singh alias Surjit Kumar alias Surjeet Lal was proceeding from Mullana-Dosarka Chowk to Barara while driving his auto rickshaw bearing registration No.HR-37C-0118 on correct left side of the road at a moderate speed. At about 1 Kilometer towards

Dosarka on Mullana-Dosarka-Barara road, Mahindra Boler Comper bearing registration No.HR-01 V-8037 being driven by the respondent No.1. rashly and negligently in a zig zag manner and at high speed, came from the opposite Barara side and by going towards extreme wrong side of the road and hit against the three-wheeler driven by Surjit Singh alias Surjit Kumar alias Surjeet Lal on the road side. As a result of this, deceased received grievous injuries including the head injuries and died at the spot. A criminal case was got registered against the respondent No.1 vide FIR bearing No.160 dated 02.11.2010 for the offence under Sections 279 and 304-A of the IPC.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 38 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.3-Insurance Company.

Sr.No.	Heads of compensation	Amount
1	Income	Rs.4500/- p.m.
2.	Deduction 1/4	Rs.4500/- ---Rs.1125/-=Rs.3375/-
3.	Annual loss of dependency after applying the multiplier	Rs.3375/- X 15 X 12=Rs.6,07,500/-
4.	Loss of consortium	Rs.10,000/-
5.	Funeral expenses	Rs.10,000/-
6.	Loss of estate	Rs.10,000/-
7.	Non-pecuniary damages	Rs.10,000/-
	Total	Rs.6,47,500/-

Learned counsel for the claimant-appellant contends that the compensation awarded by the Tribunal is on the lower side in view of the judgment of the Supreme Court in the case of **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.

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	Rs.4500/- p.m.
2.	Future prospect 40%	Rs.4500/- + Rs.1800/-= Rs.6300/-
2.	Deduction 1/4	Rs.6300/- ---Rs.1575/-=Rs.4725/-
3.	Annual loss of dependency after applying the multiplier	Rs.4725/- X 15 X 12= Rs.8,50,500/-
4.	Conventional heads	Rs.70,000/-
	Total	Rs.9,20,500/-
	Enhanced amount of compensation	Rs.9,20,500/- ---- Rs.6,47,500/- =Rs.2,73,000/-

Resultantly, the enhanced amount of compensation of Rs.2,73,000/- 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

21.02.2018

anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No