

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.1741 of 2014
Date of decision:- 20.03.2018

Roshani and Others

...Appellants

Versus

Abhimanuy and others

...Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.S.S.Verma, Advocate, for the appellants.

Mr.V.P.Sangwan, Advocate, for respondents No.1 and 2.

Mr.G.D.Gupta, Advocate, for respondent/Insurance Company.

RITU BAHRI J. (Oral)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 08.10.2013, passed by the learned Motor Accident Claims Tribunal, Bhiwani (for short, 'the Tribunal') vide which compensation to the tune of Rs.6,24,000/- was awarded to the claimants on account of death of Vishnu alias Vishnu Dutt.

FACTS NOT IN DISPUTE

On 27.04.2012 deceased Vishnu alias Vishnu Dutt along with his friend deceased Hira Lal was going on motorcycle bearing registration No.16C-8138 from Bhiwani to village Kural, which was being driven by deceased Hira Lal at moderate speed with full care and caution on extreme left side of the road. Babu Lal and Bhagirath were on another motorcycle and their motorcycle was just behind the motorcycle of deceased Hira Lal. When they reached near Radhey Shyam concrete Factory near village Golagarh, then a car bearing registration No.HR-12G-5000 came from front side, which was being driven by respondent No.1 at high speed, rash and negligent manner and struck his car with motorcycle being driven by Hira Lal and due to which Hira Lal and Vishnu alias Vishnu Dutt along with their motorcycle fell on the road and sustained multiple and grievous injuries. On

under Section 279 and 304-A of IPC was registered at Police Station Sadar Bhiwani against respondent No.1.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 44 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. The learned Tribunal had assessed the compensation as under:

Sr.No.	Heads of compensation	Amount
1	Income as per minimum wages	Rs.4800/-
2.	Deduction 1/4	Rs.4800/- --- Rs.1200/-= Rs.3600/-
3.	Annual loss of dependency after applying multiplier	Rs.3600/- X12 X 14= Rs.6,04,800/-
4.	Conventional heads	Rs.20,000/-
	Total	Rs.6,24,800/-

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 "**Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77'; 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 as per minimum wages	Rs.5000/-
2.	Future prospect 25%	Rs.5,000/- + Rs.1250/-=

		Rs.6250/-
2.	Deduction 1/4th	Rs.6250/- --- Rs.1563/-= Rs.4687/-
3.	Annual loss of dependency after applying multiplier	Rs.4687/- X12 X 14= Rs.7,87,416/-
4.	Conventional heads	Rs.70,000/-
	Total	Rs.8,57,416/-
	Enhanced amount of compensation	Rs.8,57,416/- ---- Rs.6,24,800/- =Rs.2,32,616/-

Resultantly, the enhanced amount of compensation of Rs.2,32,616/- 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.

20.03.2018
anil

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned :</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>