

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.1403 of 2015 (O&M)

Date of Decision: 12.03.2018

Malkiat Kaur and another

.....Appellants

Vs.

Sanjeev Kumar and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Shivoy Dhir, Advocate, for the appellants.

Mr.Ankur 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 04.11.2014, passed by the learned Motor Accident Claims Tribunal, Rupnagar (for short, 'the Tribunal') vide which compensation to the tune of Rs.5,39,000/- was awarded to the claimants on account of death of Devinder Singh in a motor vehicular accident.

FACTS NOT IN DISPUTE

On 04.03.2014, deceased Devinder Singh along with his friend Kirpal Singh was coming from Nangal for going towards Kiratpur Sahib. Devinder Singh was plying the Motor Cycle and Kirpal Singh was pillion rider. Devinder Singh was driving the Motor cycle with proper care and caution on left side of the road. When they reached near village Dher on GT Road Nangal-Anandpur Sahib, it was about 10:30 p.m. In the meantime,

rashly and negligently by respondent No.1 and struck against the Motor cycle of deceased by coming on wrong side of the road. Both the occupants fell down and received multiple injuries. They were taken to civil Hospital, Anandpur Sahib and after giving first aid, they were referred to PGI, Chandigarh. Devinder Singh ultimately succumbed to the injuries on 12.03.2014. On the statement of Kirpal Singh, Fir No.23 dated 11.03.2014 was recorded under Sections 279, 337, 338, 304-A and 427 IPC at Police Station Anandpur Sahib.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 18 years old at the time of his accident 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 as daily wages	Rs.4,000/- per month
2.	Future prospect 50%	Rs.4,000/- + Rs.2,000/-= Rs.6,000/-
3.	50% Deduction	Rs.6000 --- Rs.3000/-= Rs.3000/-
4.	Annual loss of dependency after applying the multiplier.	Rs.3000/- X 14 X 12= Rs.5,04,000/-
5.	Medical expenses	Rs.15,000/-
6.	Transportation	Rs.10,000/-
7.	Funeral expenses	Rs.10,000/-
	Total	Rs.5,39,000/-

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.

Keeping in view the minimum wages of unskilled labourer in September, 2013(Annexure A-1), the income of the deceased is taken Rs.6500/- (rounded off) per month.

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 daily wages	Rs.6500/- per month
2.	Future prospect 40%	Rs.6500/- + Rs.2600/-= Rs.9100/-
2.	50% Deduction	Rs.9100/- --- Rs.4550/-= Rs.4550/-
3.	Annual loss of dependency after applying the multiplier.	Rs.4550/- X 12 X 18= Rs.9,82,800/-
4.	Conventional heads	Rs.30,000/-
	Total	Rs.10,12,800/-
	Enhanced amount of compensation	Rs.10,12,800/- ---- Rs.5,39,000/- = Rs.4,73,800/-

Resultantly, the enhanced amount of compensation of Rs.4,73,800/- 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

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

12.03.2018

anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No