

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

FAO No. 3763 of 2013

Date of decision: February 5, 2018

Smt. Bhawna Soni and another

..... Appellants

Versus

Rajender Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Shiv Kumar, Advocate
for the appellants.

Mr. Ram Bilas Gupta, Advocate
for respondent Nos. 1 and 2.

Mr. Sukhdarshan Singh, Advocate
for respondent No.4-Insurance Company.

HARI PAL VERMA, J (ORAL)

Appellants-claimants have filed the present appeal seeking enhancement of compensation awarded by the learned Motor Accident Claims Tribunal, Faridabad (for short “the MACT”) vide award dated 26.3.2013.

The claimants have filed a claim petition under Section 166 of the Motor Vehicles Act, 1988, for grant of compensation on account of death of Anil Kumar Soni in a motor vehicular accident which took place on 21.11.2011. As per the claim-petition, on 21.11.2011 at about 10.00 A.M., when Anil Soni with his brother-in-law were going on their respective motor cycles and Anil Soni was driving his motor cycle bearing registration No. HR-29T-5897 with moderate speed, reached at Sohna road, Sector 24, Faridabad, the offending truck bearing registration No. HR-38L-

0453 driven by respondent No.1 in a rash and negligent manner hit the motor cycle of the deceased from behind by overtaking the truck, as a result thereof the deceased Anil Kumar Soni fell down on the road and came under the rear tyre of the truck and sustained serious, grievous and fatal injuries and fractures on his both legs and hands, head and other vital parts of his body were also injured. The deceased died in hospital on 21.11.2011 itself.

As per claim-petition, the deceased was 46 years of age and was working as Asstt. Purchaser in M/s Omega Tubes Profile Private Ltd., Sector 25, Faridabad. He was getting basic salary of ₹5,800/- per month. It was claimed that he was also working as Salesman from 6.00 p.m. to 10.00 p.m. in EMM Corner Departmental Store and was drawing a salary of ₹5,000/- per month in addition to the salary given by M/s Omega Tubes Profile Private Ltd. The deceased left behind the widow, minor son and old parents. Considering his salary as ₹5,800/- per month and the age of the deceased 46 years the learned MACT had applied the multiplier of 13. An amount of ₹5,000/- was awarded towards consortium, ₹5,000/- was awarded towards loss to estate whereas an amount of ₹5,000/- was granted towards the expenditure incurred for performing the last rites. Resultantly, the claim-petition was accepted and a total compensation of ₹6,91,000/- was awarded to the claimants.

Dissatisfied with the aforesaid award, the claimants have filed the present appeal seeking enhancement of compensation.

Learned counsel for the appellants has argued that as per the ration card issued on 14.11.2007 as on the date of accident, the age of the deceased was 38 years. Therefore, the MACT was required to apply multiplier of 14, but it has wrongly applied multiplier of 13 considering the

age of the deceased as 46 years. He has further argued that the MACT has not awarded any amount towards future prospects and has awarded a meager amount under the head of consortium, funeral expenses and loss to estate, which is not in terms of the judgment passed by the Hon'ble Apex Court in case **National Insurance Company Ltd. Vs. Pranay Sethi and others 2017 (4) R.C.R.(Civil) 1009.** He states that the claimants being four in number, the learned MACT was required to apply deduction of 1/4th towards personal expenses of the deceased.

On the other hand, learned counsel for respondent No.4- Insurance Company has argued that adequate compensation has already been awarded. However, he states that at the most the claimants are entitled for modification of the award in terms of the judgment passed in **National Insurance Company Ltd.'s case (supra).**

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

Since in the claim petition, it is pleaded that age of the deceased was 46 years, learned MACT had rightly applied multiplier of 13. The claimants cannot retract to the averments mentioned in the claim petition. In the claim petition the deceased has been shown to be 46 years of age working as Asstt. Purchaser in M/s Omega Tubes Profile Private Ltd., Sector 25, Faridabad and was drawing a salary of ₹5,800/- per month.

Perusal of claim petition shows that apart from the widow and minor son, there are old parents also, who were dependents upon the deceased. Thus, the dependents being four (4) in number, in view of the law laid down by Hon'ble Apex Court in **Sarla Verma and others Vs.**

Delhi Transport Corporation and another, 2009 (6) SCC 121, deduction

of 1/4th amount was required to be applied towards the personal expenses of the deceased.

The argument qua future prospects raised by learned counsel for appellant carries weight. In view of the law laid down by Hon'ble Apex Court in National Insurance Company Limited Vs. Pranay Sethi and others 2017 (4) RCR (Civil) 1009, the claimants are entitled for future prospects @ 25%. Similarly the compensation awarded under the conventional heads needs modification.

Accordingly, the award dated 26.3.2013, passed by the Tribunal is modified and the compensation, to which the claimants are entitled is computed as follows:-

S.No.	Heads	Calculation
(i)	Monthly income of deceased :	₹5,800/-
	25% of above (i) is to be added towards future prospects :	₹1,450/-
(ii)	Total monthly income of deceased :	₹7,250/-
(iii)	Annual income of deceased (7250x12) :	₹87,000/-
(iv)	Income after deduction of 1/4 th amount towards personal expenses of the deceased. :	₹65,250/-
(v)	Compensation after applying multiplier of 13. :	₹8,48,250/-
(vi)	Conventional heads :	
	Loss of Estate :	₹15,000/-
	Loss of Consortium :	₹40,000/-
	Funeral expenses :	₹15,000/-
	Total amount of compensation :	₹9,18,250/-
	Amount already awarded :	₹6,91,000/-
	Enhancement :	₹2,27,250/-

Since the claimants have already been awarded an amount ₹6,91,000/-, this amount is required to be deducted from the total amount of compensation.

Accordingly, the claimants are entitled for enhancement of compensation of ₹2,27,250/- over and above the compensation already awarded by the learned MACT, which shall carry interest @ 7.5% per annum from the date of filing of the claim petition till its realization.

With the aforesaid modification in the award, the present appeal stands disposed of.

(HARI PAL VERMA)
JUDGE

February 5, 2018
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Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No