

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 1904 of 2015 (O&M)
Date of Decision: 14.02.2018

National Insurance Company Ltd.

....Appellant

V/S

Harpreet Kaur and Others

....Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present : Mr. Prashant Gupta, Advocate,
for the appellant.

RITU BAHRI, J.(Oral)

The present appeal has been filed by the appellant against the Award dated 08.12.2014 whereby respondent Nos. 1 to 4 have been awarded compensation of Rs.11,37,500/- along with interest @7% p.a., by the learned Motor Accident Claims Tribunal, Panchkula (for short, 'the Tribunal') on account of death of Smt. Manjeet Kaur @ Poli in road accident which took place on 23.08.2013.

FACTS NOT IN DISPUTE

Brief facts of the dispute are that, on 23.08.2013, Smt. Manjeet Kaur @ Poli (since deceased) was coming from her parental house from village Khol Fateh Singh, District Panchkula to her matrimonial house at Vilalge Lohara, Tehsil Babain, District Kurukshetra alongwith Claimant No. 1 And her nephew namely Gurcharan Singh on motor cycle bearing registration No. HR-49C-5889. When they crossed railway crossing of Pinjore-Nalagarh road, in the meantime, a Talla Truck bearing registration No. HP12D-5268 (herein after referred to as 'offending vehicle') which was

being driven by respondent No.1 rashly and negligently, at a high speed came from behind and hit motorcycle fell down on the road. Smt. Manjeet Kaur @ Poli received multiple and grievous injuries including head injury and died on the spot. In this regard FIR No.178 dated 23.08.2013 under Sections 279,337 & 304-A of IPC was registered with P.S. Pinjore, District Panchkula. Consequently, claimant-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had been caused due to rash and negligent act of truck driver/respondent No.1. The deceased was 38 years of age and earning Rs. 8000/- per month from tailoring work and Rs. 2000/- per month by selling milk of buffaloes but no proof was found regarding salary of the deceased.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimants. Keeping in view all facts and circumstances Tribunal awarded compensation to the claimants as under:

Sr. No.	Heads	Calculations
1	Salary	Rs. 5000/-
2	1/4 th deducted towards dependency	Rs.5000-1250=3750/-
3	Multiplier applied	Rs.3750X12X15=Rs.67,5000/-
4	1/2 nd towards future prospects	Rs.67,5000+337500=10,12,500/-
5	Funeral expenses	Rs.25,000/-
6	Compensation towards love and affection	Rs.1,00,000/-
	Total Compensation awarded	Rs.11,37,500/-

The learned counsel for the claimant-appellant contends that the compensation awarded by the learned Tribunal is on higher side and

deserves to be reduced.

In the present appeal parties are not in dispute with the findings of issue no. 1 that accident took place due to the sole rash and negligent driving of respondent No. 1.

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

A perusal of the file shows that on 01.04.2015, insurance company is directed to deposit the entire amount of compensation, out of which 75 % shall be released without surety and remaining 25 % alongwith interest be released on furnishing of surety but the entire amount of compensation has been released and has already been accepted by the claimants as per the law prevalent at that time.

Since, the entire amount has been released and this court put reliance upon the judgment of Hon'ble Supreme Court in case **National Insurance company ltd. Versus Pranay Sethi and Ors. Decided on 22.11.2017** wherein it has been held that once if, amount is paid to the claimants will not be recovered back.

Hence, all the amount has been released and cannot be recovered, no contrary judgment has been placed on record by learned counsel through the findings of the impugned Award, the orders of the learned Tribunal does not reflect any material irregularity or perversity which warranting interference. Hence the present appeal stands dismissed.

Dismissed.

14.02.2018
Riya Grover

(RITU BAHRI)
JUDGE

Whether speaking/reasoned Yes
Whether reportable No