

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-1072-2016

Date of decision: 15.05.2018

Kishan Lal

...Appellant

V/s.

Pritam Singh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: None.

RITU BAHRI, J. (Oral).

The claimants have come up in appeal against the award dated 03.09.2015 passed by Motor Accident Claims Tribunal (for short 'the Tribunal') whereby they have been awarded a compensation of Rs.4,47,000/- on account of death of Karanjit Kumar who died in a road accident which took place on 23.05.2012.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 23.05.2012, Karanjit Kumar along with his father Kishan Lal was going from village Akalgarh to Dinhanager on his motor-cycle No. PB-35M-5129. When they reached 1 KM ahead of village Jandi Chounta, a tractor make sonalika along with Trolley bearin No. PB-41-A-9524 driven by respondent No. 3 rashly and negligently hit the motor-cycle which resulted into serious injuries and he died at the spot.

With regard to the alleged accident, his father Kishan Lal (an eye witness) registered an FIR No. 113 dated 23.05.2012 (Ex.P1) under Sections 304-A, 279 and 427 IPC against respondent No. 3-Pamma @ Anil

Manhas. Consequently, the claimant-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

The parties are not in dispute with regard to finding on issue No. 1 that the accident took place on account of rash and negligent driving by respondent No. 3. This finding has been rightly given keeping in view that the FIR No. 113 dated 23.05.2012 (Ex.P1) under Sections 304-A, 279 and 427 IPC was registered against respondent No. 3. As per the postmortem report (Ex.P2), the death was on account of injuries. The driver was charge-sheeted vide ExPW1/C and was facing trial.

The deceased was 20 years of age at the time of accident and was unmarried. The Tribunal has assessed the compensation as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.4000
(ii)	50% deduction for personal expenses	4000-2000=2000
(iii)	Compensation after multiplier of 18 applied	2000 X 12 X 18=432000
(iv)	Loss of estate	Rs.10,000/-
(v)	Funeral expenses	Rs.5,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs. 4,47,000/-

Hence, the claimants were found entitled to total compensation of Rs.4,47,000/- along with interest @ 6% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-appellants have preferred the present appeal.

REASSESSED COMPENSATION

The fact of accident is admitted and proved. Finding of negligence has rightly been given by the Tribunal and it does not require any interference on that account. In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed as under keeping in view the judgments passed by Hon'ble the Supreme

Court in *Sarla Verma and others vs. Delhi Transport Corporation and another*, 2009 (3) RCR (Civil) Page 77, *National Insurance Company Limited Vs. Pranay Sethi and others*, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017) and the minimum wages prevalent in the State of Punjab in the year 2012:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.5000
(ii)	40% future prospects	5000+2000=7000
(iii)	50% deduction for personal expenses	7000-3500=3500
	Compensation after multiplier of 18 applied	3500 X 12 X 18=756000
(iii)	Conventional head	Rs. 30,000
(vi)	TOTAL COMPENSATION AWARDED	Rs. 7,86,000/-
(vii)	ENHANCED AMOUNT OF COMPENSATION	Rs.7,86,000-4,47,000= Rs.3,39,000/-

The enhanced amount of compensation of Rs.3,39,000/- shall be payable within a period of two months 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 the case of “*Shri Nagar Mal and others V/s. The Oriental Insurance Company Ltd. and others in Civil Appeal No. 448 of 2018.*”.

Remaining conditions of disbursal of amount shall remain unaltered.

Accordingly, the award stands modified to the above extent and the present appeal is allowed.

(RITU BAHRI)
JUDGE

May 15, 2018
Divyanshi

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No