

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.3821 of 2014 (O&M)

Date of Decision: 05.02.2018

Mst.Zareefa Banoo and others

.....Appellants

Vs.

Smt.Kulwant Kaur and Others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:-

Mr.Vishal Munjal, Advocate,
for the appellants.

Mr.Dheeraj Mahajan, Advocate,
for respondents No.1 and 2.

Mr.Pardeep Goyal, Advocate, for respondent/Ins.Co.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 20.08.2013 passed by the learned Motor Accident Claims Tribunal, Gurdaspur (for short, 'the Tribunal') vide which compensation to the tune of Rs.8,00,000/- was awarded to the claimants on account of death of Mohammad Ayub Wani.

FACTS NOT IN DISPUTE

On 06.03.2007, the deceased Mohammad Ayub Wani was driving Scorpio No.PB-11/AA-7333 and when he reached ahead of Kath Ka Pul, a truck bearing No.PAT-4033 which negligently wrongly parked between the road without any reflectors, indicators or parking lights and the driver of the offending truck was repairing the head lights of his truck. In the meanwhile some vehicle came from opposite side with glittering lights, Mohammad Ayub Wani took his Scorpio on his left side and the Scorpio dashed with the stationary truck No.PAT-4033 from his rear side as a result of which driver of truck died on the spot. The deceased Mohammad Ayub Wani was other persons who were travelling in Scorpio were brought to Civil Hospital, Pathankot. The deceased was serious and was referred to Apex Hospital, Amritsar where remained admitted w.e.f. 06.03.2007 to 13.03.2007 and died

against the driver of Truck was at fault.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 50 years old and the claimants had produced on the record the income tax return of the deceased. The factum of accident had been proved and the offending vehicle was insured with respondent No.4-Insurance Company.

Sr.No.	Heads of compensation	Amount
1	Income	Rs.5000/- p.m. X 12= Rs.60,000/- per annum
2.	Total loss of dependency after applying the multiplier	Rs.60,000/- X 13= Rs.7,80,000/-
3.	Funeral Expenses	Rs.20,000/-
	Total	Rs.8,00,000/-

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.

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 income tax return	Rs.10,000/- p.m. X 12= Rs.1,20,000/- per annum
2.	Future prospect 15%	Rs.1.20,000- p.m. + Rs.18,000/-= Rs.1,38,000/-
3.	Deduction 1/3rd	Rs.1,38,000/- ---Rs.46,000/-= Rs.92,000/-
4.	Total loss of dependency after applying multiplier	Rs.92,000/- p.a. X 13= Rs.11,96,000/-

5.	Medical Expenses	Rs.25,000/-
6.	Conventional Heads	Rs.70,000/-
	Total	Rs.12,91,000/-
	Enhanced amount of compensation	Rs.12,91,000/- Rs.8,00,000/-= Rs.4,91,000/-

Resultantly, the enhanced amount of compensation of Rs.4,91,000/- 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 @ 9% 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 **Kumari Kiran through her father Harinarayan vs. Sajjan Singh and others, 2015(1) SCC 539**. 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

05.02.2018
anil

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