

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.2272 of 2015 (O&M)

Date of Decision: 05.02.2018

Kulwant Kaur and another

.....Appellants

Vs.

Mohammad Ayub Wani and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Dheeraj Mahajan, Advocate,
for the appellants.

Mr.Pardeep Kumar, 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 19.07.2012 passed by the learned Motor Accident Claims Tribunal, Gurdaspur- (for short, 'the Tribunal') vide which compensation to the tune of Rs13,57,200/- was awarded to the claimants on account of death of Gurmeet Singh.

FACTS NOT IN DISPUTE

On 05.03.2007, the deceased Gurmeet Singh was driving truck (wrongly mentioned as bus) No. PAT 4033 and he was going from Gurdaspur to Pathankot for supply of milk of Verka Milk Plant. He was accompanied to Pathankot for supply of milk of Verka Milk Plant. He was accompanied by one Gurmukh Singh. After delivering milk at Army Dairy, Pathankot, they started journey for Gurdaspur. When the truck reached ahead of Kath Bridge of GT Road, the head lights of truck went out of order. The deceased Gurmit Singh parked truck on side of road with right tyre of truck on road. The blinkers were switched on and at about 12:30 am, the offending Tata Scorpio Bearing registration No.PB-11-A7333 came from backside being driven by Mohammad Ayub Wani (now deceased) in a rash and negligent manner at a very high speed and dashed the same with stationary truck. Due to such striking, the truck pushed ahead and it crossed over deceased Gurmit Singh and he died on the spot. Then the truck struck

with a tree. Gurmukh Singh, another occupant of truck had also sustained injuries. The Police of PS Sadar Pathankot had lodged an FIR No.18 of 06.03.2007 against the deceased itself whereas the driver of Scorpio was at fault.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 48 years old and the claimants had produced on the record the 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	Salary per month as per salary certificate Ex.C3	Rs.8700/- p.m.
2.	Future prospect 50%	Rs.8700 + Rs.4350/-= Rs.13050/-
3.	Deduction 1/3rd	Rs.13050/- --- Rs.4350/-= Rs.8700/-
4.	Loss of dependency after applying multiplier	Rs.8700/- X12 X 13= Rs.13,57,200/-
	Total	Rs.13,57,200/-

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. The deceased was a permanent employee of Verka Milk Plant, Gurdaspur and he was drawing gross salary of Rs.8661/- per month now rounded off Rs.8700/- per month as per salary certificate Ex.C3. 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
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1	Salary per month as per salary certificate Ex.C3	Rs.8700/- p.m.
2.	Future prospect 50%	Rs.8700 + Rs.4350/-= Rs.13050/-
3.	Deduction 1/3rd	Rs.13050/- --- Rs.4350/-= Rs.8700/-
4.	Loss of dependency after applying multiplier	Rs.8700/- X12 X 13= Rs.13,57,200/-
5.	Conventional heads	Rs.70,000/-
	Total	Rs.14,27,200/-
	Enhanced amount of compensation	Rs.14,27,200/- ---- Rs.13,57,200/-= Rs.70,000/-

Resultantly, the enhanced amount of compensation of Rs.70,000/- shall be payable within a period of forty five days from the date of receipt of certified copy of this order. Since, the delay of 811 days was condoned vide order dated 16.02.2016 subject to the condition that appellant would not be entitled to any interest in case of enhancement, as such, the claimants are not entitled for interest of 811 days. 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 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

05.02.2018
anil

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