

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.3895 of 2014

Date of Decision: 25.05.2018

Smt.Lalita Devi and others

.....Appellants

Vs.

Dharam Pal and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Ravinder Hooda, Advocate, for the appellants.

Mr.S.P.Khatri, Advocate, for respondent No.1.

Mr.Sandeep Saini, Advocate, for
Mr.Sumit Gupta, Advocate, for respondent No.2.

Ms.Vandana Malhotra, Advocate, for
respondent No.3/Insurance Company.

RITU BAHRI J.(Oral)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 07.11.2013, passed by the learned Motor Accident Claims Tribunal, Rohtak (for short, 'the Tribunal') vide which compensation to the tune of Rs.3,55,236/- was awarded to the claimants on account of death of Dharmender.

FACTS NOT IN DISPUTE

On 11.09.2012, deceased Dharmender was going from Rohtak to his village Gochhi while sitting on motorcycle No.HR-12M-7519, as pillion rider. His uncle Joginder son of Shri Nyadar Singh, was driving the said motorcycle at the slow speed and on the correct side of the road after observing all the traffic rules. At about 3:30p.m. when they reached near Chowk of Sector 14, Rohtak, a car bearing No.HR-13E-3535 being driven by its driver rashly, negligently and at a high speed without following the traffic rules came from behind and struck against the motorcycle from behind. Due this impact, both the occupants of the motorcycle fell down on the road alongwith the motorcycle and Dharmender sustained serious and

grievous injuries on his person. Dharmender was taken to PGIMS, Rohtak by Joginder with the help of passers by but due to unavailability of Neurosurgeon, he was taken to Mansarovar Hospital, Rohtak and was admitted there. He was treated there but he did not recover and succumbed to the injuries on 23.09.2012 at Mansarovar Hospital, Rohtak. Regarding this accident, FIR No.417 dated 11.09.2012 for the offence under Sections 279, 337, 427 and 304-A of the IPC was registered in Police Station, Urban Estate, Rohtak.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 23 years old and he was student of M.Sc Computer IInd year of MD University Rohtak. It is stated that he was earning Rs.12,000/- per month from tuition work but claimants failed to produce on the record any documentary evidence regarding income of the deceased. As such, his income has been taken as Rs.3,000/- per month The factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company. The learned Tribunal has assessed the income as under :

Sr.No.	Heads of compensation	Amount
1	Income as daily wages	Rs.3000/-
2.	Deduction 50%	Rs.3000/- -- Rs.1500/-= Rs.1500/-
3.	Total loss of dependency after applying multiplier	Rs.1500/- X 12 X 18= Rs.3,24,000/-
4.	Medical bills	Rs.6236/-
5.	Funeral expenses	Rs.25,000/-
	Total	Rs.3,55,236/-

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 judgments "**National Insurance Company Ltd. Vs. Pranay Sethi and others SLP(C) 25590 of 2014 decided on 31.10.2017 and Manjinder Kaur and anr Vs. Jaspreet Singh Grewal and anr passed in FAO No.6679 of 2010.**

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.

A reference can be made by the judgment of this Court in the case of **Manjinder Kaur and anr. Vs. Jaspreet Singh Grewal and anr passed in FAO No.6679 of 2010**, wherein, deceased was student of Mechanical Engineer and was brilliant student and his income was taken as Rs.10,000/- p.m.. It has further been held in the judgment of Karnataka High Court in the case of **Dr.Mahadeva Deshi and another Vs. M/s Cholamandala M.S.General Insurance Company Limited Bangalore and another 2015 (62) RCR (Civil) 474**, that the deceased was a III Semester BDS student and the learned Tribunal has assessed his income as Rs.10,000/- per month. As such, in the present case, the income of the deceased has been taken as Rs.10,000/- per month

It is not in dispute that the offending vehicle was fully insured with the Insurance company. Following the ratio of law laid down by above mentioned judgments, the compensation has to be re-assessed as follows:-

Sr.No.	Heads of compensation	Amount
1	Income	Rs.10,000/-
2.	Future prospect 40%	Rs.10,000/- + Rs.4000/-= Rs.14000/-
3.	Deduction 1/ 2nd	Rs.14000/- --- Rs.7,000/-= Rs.7000/-
4.	Total loss of dependency after applying multiplier	Rs.7000/- X 12 X 18= Rs.15,12,000/-
5.	Conventional heads	Rs.30,000/-
	Total	Rs.15,42,000/-
	Enhanced amount of compensation	Rs.15,42,000/- --- Rs.3,55,236/- =Rs.11,86,764/-

Resultantly, the enhanced amount of compensation of Rs.11,86,764/- 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 @ 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

25.05.2018

anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No