

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.2360 of 2015 (O&M)

Date of Decision: 18.05.2018

Warshina

.....Appellant

Vs.

Naresh @ Chet Ram and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Ms.Manjeet Kaur, Advocate, for
Mr.Mohammad Arshad, Advocate, for the applicant/appellant.

Mr.J.S.Hooda, Advocate, for respondents No.1 and 2.

Mr.Sanjeev Kodan, Advocate, for respondent No.3.

RITU BAHRI J.(Oral)

CM No.7321-CII of 2015

For the reasons stated in the application, delay of 185 days in filing the appeal is condoned.

Application stands disposed of.

Main Case

Present appeal has been preferred by the claimant-appellant (for short 'the appellant'), against award dated 22.04.2014, passed by the learned Motor Accident Claims Tribunal, Mewat (for short, 'the Tribunal') vide which compensation to the tune of Rs.12,93,600/- was awarded to the claimants on account of death of his husband Nisar.

FACTS NOT IN DISPUTE

On 06.06.2013, the deceased Nisar and Amir son of Khurshid while riding on their motorcycle make Hero Honda colour black were on their way to village Kaithwara from village Asam and at about 12 noon when reached near village Ranf Kaithwara-Amrooka road then a vehicle make TATA 407 No.HR-38P/3364 being driven by respondent No.1 in rash and negligent manner came from behind side and hit to their motorcycle. As

a result of the impact Aamir and Nasir fell on the road.. Aamir died on the

road at the spot whereas Nasir received multiple grievous injuries. While shifting Nasir to Civil Hospital Alwar, he succumbed to the injuries. The matter was report to the police on the same day by Umar Sahid, brother of Aamir whereon FIR No.61 under Section 279, 336 and 304-A of Ipc was registered with PS Kaithwara, Bharatpur (Rajasthan).

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 22 years old and the claimants failed to produce on the record any 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	Income as unskilled labourer	Rs.5200/-
2.	Future prospects 50%	Rs.5200/- + Rs.2600/-= Rs.7800/-
3.	Deduction 1/4th	Rs.7800/- --- Rs.1950/-= Rs.5850/-
4.	Total loss of dependency after applying multiplier	Rs.5850/- X 12 X 18= Rs.12,63,600/-
5.	Last rites and funeral expenses	Rs.20,000/-
6.	Loss of consortium	Rs.10,000/-
	Total	Rs.12,93,600/-

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 judgment, the compensation has to be re-assessed as follows:-

Sr.No.	Heads of compensation	Amount
1	Income as per minimum wages in 2013	Rs.5500/-
2.	Future prospects 40%	Rs.5500/- + Rs.2200/-= Rs.7700/-
3.	Deduction 1/4th	Rs.7700/- --- Rs.1925/-= Rs.5775/-
4.	Total loss of dependency after applying multiplier	Rs.5775/- X 12 X 18= Rs.12,47,400/-
5.	Conventional heads	Rs.70,000/-
	Total	Rs.13,17,400/-
	Enhanced amount of compensation	Rs.13,17,400/- ---- Rs.12,93,600/-= Rs.23,800/-

Resultantly, the enhanced amount of compensation of Rs.23,800/- 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

18.05.2018
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No