

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.4196 of 2014
Date of Decision: 30.05.2018

Sunita Rani and others

.....Appellants

Vs.

Rajesh Kumar and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.J.S.Rozera, Advocate, for the appellants.

Mr.Rajesh Kumar Sharma, Advocate, for the
respondent/Insurance Company.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 06.11.2013, passed by the learned Motor Accident Claims Tribunal, Karnal (for short, 'the Tribunal') vide which compensation to the tune of Rs.12,75,000/- was awarded to the claimants on account of death of Rajinder son of Lakhi Ram, in a motor vehicular accident.

FACTS NOT IN DISPUTE

On 18.06.2011 brother of the deceased Rajinder namely Mahabir alongwith one Sunil Kumar had come to Karnal on motor cycle bearing registration No.HR05Y-9332 for some personal work. On the said date i.e. 18.06.2011 deceased Rajinder had already come to Karnal for some personal work on his separate motor cycle bearing registration No.HR05L-9267 and after finishing their work, all the three i.e. deceased Rajinder, his brother

cycles. Deceased Rajinder was ahead of them and when at about 4:00 PM deceased Rajinder reached in front of Golf Ground, HAP Madhuban on the GT Road, in the meantime, A TATA ACE bearing registration No.HR45-6463 came from Karnal side at a very high speed rashly and negligently and all of a sudden struck against the motor cycle of deceased Rajinder. Due to this impact, deceased fell down on the ground and received multiple injuries on his head and others parts of the body. After the accident, the deceased Rajinder was shifted to the General Hospital, Karnal by his brother Mahabir but he succumbed to the injuries and the doctors declared him dead. A formal FIR N.152 dated 18.06.2011 has been registered against respondent No.1.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 40 years old as per his postmortem report Ex.P35 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	Rs.10,000/- per month
2.	Deduction on personal expenses 1/4th	Rs.10,000/- ---- Rs.2500/-= Rs.7500/-
3.	Annual loss of dependency after applying the multiplier	Rs.7500/- X 12 X 14= Rs.12,60,000/-
4.	Loss of consortium	Rs.5,000/-
5.	Last rites and funeral expenses	Rs.10,000/-
	Total	Rs.12,75,000/-

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	Rs.10,000/- per month
2.	Future prospect 40%	Rs.10,000/- + Rs.4,000/-= Rs.14,000/-
3.	Deduction on personal expenses 1/4th	Rs.14000/- ---- Rs.3500/-= Rs.10,500/-
4.	Annual loss of dependency after applying the multiplier	Rs.10,500/- X 12 X 15= Rs.18,90,000/-
5.	Conventional heads	Rs.70,000/-
	Total	Rs.19,60,000/-
	Enhanced amount of compensation	Rs.19,60,000/- ---- Rs.12,75,000/-= Rs.6,85,000/-

Resultantly, the enhanced amount of compensation of Rs.6,85,000/- 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 @ 7.5% per annum from the date of filing of the claim petition, till its realization, in view of the judgment of Hon'ble

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

30.05.2018

anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No