

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No4426 of 2014 (O&M)

Date of decision:- 20.03.2018

Smt.Krishana

...Appellant

Versus

Bishambhar Dass and ors.

...Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Ajay Shekhawat, Advocate, for the appellant.

Mr.Raman Chawla, Advocate, for respondents No.1 and 2.

Mr.R.C.Gupta, Advocate, for respondent No.3.

RITU BAHRI J. (Oral)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 15.01.2014, passed by the learned Motor Accident Claims Tribunal, Rohtak (for short, 'the Tribunal') vide which compensation to the tune of Rs.5,30,000/- was awarded to the claimants on account of death of Rakesh in a motor vehicular accident.

FACTS NOT IN DISPUTE

On 31.12.2011, deceased Rakesh was serving under the employment of Shri Gurukripa Sales Agency, Prop. Gulshan Kumar, Taxi Stand, Near Old Bus Stand, Meham District Rohtak. On that day, Rakesh alongwith Chand son of Dilawar Singh resident of Ward No.6, Meham District Rohtak was going on the Poultry farm of Anil resident of Madina to collect the eggs. They were going in a force 40 vehicle bearing registration No.HR-61-9376 which was being driven by Rakesh at a moderate speed by following the traffic rules. When they Reached near Satyam Hotel on Meham Hissar road at about 9:00 a.m., a Tanker bearing registration No.HR-20GA-0236 came from Hissar side which was being driven by its driver/respondent No.1 in a rash and negligent manner with a high speed and he directly strucked his vehicle into the vehicle of Rakesh. Due to this

impact, Rakesh sustained multiple, grievous and serious injuries on various

parts of his body including injuries on head, hands and foots. Thereafter some passers by arranged a vehicle and Rakesh and Chand were taken to PGIMS Rohtak but Rakesh died on the way to Hospital. An FIR No.504 dated 31.12.2011 under Sections 279/337/304-A IPC was got registered in police station Meham against respondent No.1.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 27 years old and the claimants had produce on the record documentary evidence regarding income of the deceased i.e. Ex.P6. 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	Rs.5000/-
2.	Deduction 1/2	Rs.5000/- --- Rs.2500= Rs.2500/-
3.	Annual loss of dependency after applying the multiplier	Rs.2500/- X 12 X 17=- Rs.5,10,000/-
4.	Transportation	Rs.10,000/-
5.	Funeral expenses	Rs.10,000/-
	Total	Rs.5,30,000/-

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 "**Sarla Verma and Others Vs. Delhi Transport Corporation and Another, 2009 (3) RCR (Civil) page 77'; 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
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1	Salary per month	Rs.5000/-
2.	Future prospect 40%	Rs.5000/- + Rs.2000= Rs.7000/-
3.	Deduction 1/2	Rs.7000/- --- Rs.3500= Rs.3500/-
4.	Annual loss of dependency after applying the multiplier	Rs.3500/- X 12 X 17= Rs.7,14,000/-
5.	Conventional heads	Rs.30,000/-
	Total	Rs.7,44,000/-
	Enhanced amount of compensation	Rs.7,44,000/- ---Rs.5,30,000/- =Rs.2,14,000/-

Resultantly, the enhanced amount of compensation of Rs.2,14,000/- 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 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

20.03.2018
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No