

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.3285 of 2015

Date of decision:- 28.03.2018

Kuldip Singh and others

...Appellants

Versus

Ram Kumar and others

...Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Sandeep Chopra, Advocate, for the appellants.

Mr.Ajay Singla, Advocate, for respondent/Insurance Co.

RITU BAHRI J. (Oral)

Present appeal has been preferred by the claimant-appellant (for short 'the appellant'), against award dated 23.03.2015, passed by the learned Motor Accident Claims Tribunal, Hoshiarpur (for short, 'the Tribunal') vide which compensation to the tune of Rs.8,28,000/- was awarded to the claimants on account of death of Jaswinder Kaur @ Gorki.

FACTS NOT IN DISPUTE

On 20.11.2011, deceased Jaswinder Kaur @ Gorki was going on motorcycle bearing registration on PB-09-F-2565 to village Moonka to visit their relative. The claimant Kuldip Singh was driving the motorcycle and deceased was pillion rider. At about 6 p.m., when they reached near railway crossing of village Moonka, a truck bearing registration No.PB-08-AR-3395 came from back side. It was being driven in rash and negligent manner by respondent No.1 and struck the motorcycle from behind. As a result of this, the deceased received serious head injury and died at the spot. Son of deceased also received serious head injury. The truck driver fled away alongwith truck. A criminal case vide FIR No.209 dated 21.11.2011 was registered under Section 279, 304-A and 427 IPC at the instance of claimant No.1 at Police Station Tanda. Both the parties have not been disputed the findings given by the learned Tribunal as the FIR has been registered for the offence mentioned above against the respondent No.1 and

challan has been presented against him.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 35 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	Rs.4500/-
2.	1/4 th deduction	Rs.4500/- --- Rs.1125/-= Rs.3375/-
3.	Annual loss of dependency after applying the multiplier	Rs.3375/- X 12 X 16= Rs.6,48,000/-
4.	Loss of consortium	Rs.1,00,000/-
5.	Loss of love and affection	Rs.50,000/-
6.	Funeral Expenses	Rs.25,000/-
7.	Transportation charges	Rs.5,000/-
	Total	Rs.8,28,000/-

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** and "**United India Insurance Company Ltd. Vs. Sube Singh and Others passed in FAO No.218 of 2014**; wherein it has been held that a house wife as a skilled worker alone does not do complete justice to her multifarious role as a home manager and it would not be unreasonable to estimate the contribution of her in the present case at a higher figure. As such, her income has been taken by the learned Tribunal as Rs.9000/- per month. In the present case, accident has taken place in the year 2011, as such, as per minimum wages, the income of the deceased is taken as Rs.7500/- per month.

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 and Hon'ble High Court in the above mentioned judgments, the compensation has to be re-assessed as follows:-

Sr.No.	Heads of compensation	Amount
1	Notional Income	Rs.7500/-
2.	Annual loss of dependency after applying the multiplier	Rs.7500/- X 12 X16= Rs.14,40,000/-
3.	Conventional Heads	Rs.70,000/-
	Total	Rs.15,10,000/-
	Enhanced amount of compensation	Rs.15,10,000/- ----- Rs.8,28,000/-= Rs.6,82,000/-

Resultantly, the enhanced amount of compensation of Rs.6,82,000/- 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.

28.03.2018
anil

(RITU BAHRI)
JUDGE

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