

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.2343 of 2016

Date of Decision: 25.05.2018

Jasvir Kaur and others

.....Appellants

Vs.

Jagdev Singh and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Rajiv Mittal, Advocate, for the appellants.

Ms.Vandana Malhotra, 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 08.09.2015, passed by the learned Motor Accident Claims Tribunal, Bathinda (for short, 'the Tribunal') vide which compensation to the tune of Rs.12,14,000/- was awarded to the claimants on account of death of Iqbal Singh.

FACTS NOT IN DISPUTE

On 26.01.2014, Jagtar Singh son of Harnek Singh resident of village Ranm Tirath Jaga on his motorcycle No.PB-03 AA-5283 and deceased Iqbal Singh son of Buta Singh on his motorcycle Platina colour Black which was applied forward for registration number had come Talwandi Sabo for their household work and they were going to their village Ram Tirath Jaga, after finishing their work. Iqbal singh was going ahead on his motorcycle from the motorcycle of Jagrar Singh. When they reached near Kohenoor Palace then bus bearing registration No.PB-31-G-8755 of Dhillon Transport Company being driven by respondent No.1 in a rash and negligent manner without blowing horn had come from the back side, it had struck with the motorcycle of Iqbal Singh and then it struck with Babul tree. Iqbal singh fell down infront of bus and the same run over the body of Iqbal Singh. That bus also struck with another motorcycle and stopped there.

Iqbal Singh had died and his motorcycle was badly damaged. The accident had occurred due to rash and negligent manner of driver of bus No.PB-31-G8755. A case bearing FIR No.15 dated 26.01.2014 for the offence under Sections 279, 304-A 427 IPC was registered at P.S.Talwandi Sabo against respondent No.1.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 25 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 casual labourer	Rs.6000/-
2.	Deduction 1/3 rd	Rs.6000/- + Rs.2000/-= Rs.4000/-
3.	Total loss of dependency after applying multiplier	Rs.4,000/- X 12 X 18= Rs.8,64,000/-
4.	Funeral expenses	Rs.25,000/-
5.	General damages	Rs.25,000/-
6.	Loss of estate	Rs.1,00,000/-
7.	Loss of consortium	Rs.1,00,000/-
6.	Loss of love and affection	Rs.1,00,000/-
	Total	12,14,000/-

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

Sr.No.	Heads of compensation	Amount
1	Income as casual labourer	Rs.6000/-
2.	Future prospects 40%	Rs.6,000/- + Rs.2400/-= Rs.8400
3.	Deduction 1/3 rd	Rs.8400/- + Rs.2800/-= Rs.5600/-
4.	Total loss of dependency after applying multiplier	Rs.5600/- X 12 X 18= Rs.12,09,600/-
5.	Conventional heads	Rs.70,000/-
	Total	Rs.12,79,600/-
	Enhanced amount of compensation	Rs.12,79,600/- --- Rs.12,14,000/- =Rs.65,600/-

Resultantly, the enhanced amount of compensation of Rs.65,600/- 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