

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.5709 of 2013

Date of Decision: 09.01.2018

Poonam Behl and anr.

.....Appellants

Vs.

Puran Chand and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.G.S.Sandhu, Advocate,
for the appellants.

Mr.Subhash Goyal, Advocate, for
respondent No.2-Insurance Company.

RITU BAHRI, J. (ORAL)

CM No.23906-CII of 2013

For the reasons stated in the application, delay of 29 days in
filing the appeal is condoned.

Application stands disposed of.

Main Case

Present appeal has been preferred by the claimants-appellants
(for short 'the appellants'), against award dated 04.04.2013, passed by the
learned Motor Accident Claims Tribunal, Karnal (for short, 'the Tribunal')
vide which compensation to the tune of Rs.11,20,000/- was awarded to the
claimants on account of death of Vinod Kumar.

FACTS NOT IN DISPUTE

On 21.01.2011, the deceased Vinod Kumar along with other deceased
persons namely Sunty alias Satbir son of Maya Ram; Jain Singh son of
Sh.Inder Singh; Rajpal alias Raju; Vinod Kumar Behl son of Shri Piare Lal
and Sahab Singh son of Sh.Kartar Singh were coming to their village after
selling vegetables in Mandi Azadpur Delhi. After selling the vegetables at
Delhi, deceased Raj Pal and other occupants were coming back to their
respective villages on the Canter bearing registration No.HR45A5376 and
driver-responent No.1 was driving the vehicle at a very fast speed. He was

asked by the other occupants of the canter to drive the vehicle slowly but he did not care the advice of the occupants and reached near the over bridge of Khadi Ashram, Panipat, where the truck bearing registration No.HR 38L 2791 was standing in the road and its parking lights were not illuminated/on or there was no signal raised that the truck was parked and it was 5:30 a.m. In the morning as there was complete dark all around. The canter driver could not see the truck and rammed the canter behind the standing truck. The impact was so high that the deceased and so many other persons/owners of the good died on the spot. In this regard FIR No.100 dated 22.01.2011 has been lodged under Section 279, 283, 304A IPC at Police Station, Chandibagh, District Panipat.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 55 years old at the time of accident and the claimants produce on the record the income tax return dated 16.03.2010 (Ex.P1) where his annual income was found Rs.1,52,700/- as he was dealing in the business of fruits and vegetable. The factum of accident had been proved and both the offending vehicle i.e. Eicher Canter No.HR 45A5376 and Truck No.HR38L2791 was insured with Reliance General Insurance Company. Keeping in view the above, the learned Tribunal has assessed the compensation as under:-

Sr.No.	Heads of compensation	Amount
1	Income as per income tax return	Rs.1,50,000/- p.a.
2.	Deduction 1/3rd	Rs.1,50,000/- p.a.-- Rs.50,000 = Rs.1,00,000/-
3.	Annual loss of dependency after applying the multiplier	Rs.1,00,000/- X 11= Rs.11,00,000/-
4.	Transportation	Rs.20,000/-
	Total	Rs.11,20,000/-

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 as per income tax return	Rs.1,50,000/- p.a.
2.	Future prospect 10% as per judgment Pranay Sethi (Supra)	Rs.1,50,000/- p.a. + Rs.15,000/-= Rs.1,65,000/-
3.	Deduction 1/3rd	Rs.1,65,000/- p.a.-- Rs.55,000 = Rs.1,10,000/-
4.	Annual loss of dependency after applying the multiplier	Rs.1,10,000/- X 11= Rs.12,10,000/-
5.	Conventional heads as per judgment Pranay Sethi (Supra)	Rs.70,000/-
	Total	Rs.12,80,000/-
	Enhanced amount of compensation	Rs.12,80,000/- ---- Rs.11,20,000/-= Rs.1,60,000/-

Resultantly, the enhanced amount of compensation of Rs.1,60,000/- 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 @ 9% 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 **Kumari Kiran through her father Harinarayan vs. Sajjan Singh and others, 2015(1) SCC 539**. 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

09.01.2018
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No

