

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.3699 of 2015

Date of Decision: 12.03.2018

Kulwinder Kaur and others

.....Appellants

Vs.

Khalil Ahlmad @ Leela and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Arinder Arora, Advocate, for the appellants.

Mr.Paul S.Saini, 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 16.09.2014, passed by the learned Motor Accident Claims Tribunal, Ambala (for short, 'the Tribunal') vide which compensation to the tune of Rs.14,74,000/- was awarded to the claimants on account of death of Vinod Kumar in a motor vehicular accident.

FACTS NOT IN DISPUTE

On 10.08.2013, deceased Vinod alongwith his uncle Aman Kumar had gone to village Gadhouli for their personal work and after finishing their work, they were returning towards their village Bhareri Kalan on a motorcycle bearing registration No.HR04-D-5476 make Platina, which was being driven by the deceased on his correct left side of the road at a moderate speed. At about 7:15 p.m., when they reached near TATA Brick-kiln in the area of village Badholi, Tehsil Naraingarh, District Ambala, offending vehicle which was being driven by the respondent No.1 in a rash, negligent and zig-zag manner, was going ahead of the motorcycle in question but the respondent No.1 without following traffic rules and without caring that the vehicle are following his truck and without giving any indicator or signal, suddenly took a turn of the offending vehicle towards

right side, as a result of which, motorcycle in question struck against the offending vehicle. The pillion rider Aman Kumar fell on katcha portion of the road whereas head of the deceased struck against the offending vehicle and suffered multiple grievous injuries. Aman Kumar-pillion rider took the deceased immediately to General Hospital, Naraingarh for treatment by arranging a private vehicle, where, doctor on duly declared him brought dead. On the statement of Aman Kumar ,FIR No.230 dated 10.08.2013 for the offence under Sections 279/304-A IPC was registered against the respondent No.1 in Police Station Naraingarh.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 29 years old at the time of his death in the accident as per his postmortem report. The factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company. The compensation has been assessed as under:

Sr.No.	Heads of compensation	Amount
1	Income as per appointment letter Ex.P5	Rs.8,000/- per month
2.	Deduction 1/4th	Rs.8,000/- --- Rs.2000/-= Rs.6000/-
3.	Total loss of dependency after applying multiplier	Rs.6000/-X17X12= Rs.12,24,000/-
4.	Funeral and last rites	Rs.25,000
5.	Loss of consortium	Rs.1,00,000/-
6.	Loss of estate and love and affection to claimant No.2 being minor daughter	Rs.50,000/-
7.	Loss of love and affection to claimant No.3 to 5 Rs.25,000/- each	Rs,75,000/-
	Total	Rs.14,74,000/-

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 passed in SLP (Civil) No.25590 of 2014.** 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 per appointment letter Ex.P5	Rs.8,000/- per month
2.	Future prospect 40%	Rs.8,000/- +Rs.3200/- =Rs.11,200/-
3.	Deduction 1/4th	Rs.11,200/- --- Rs.2800/-= Rs.8400/-
4.	Total loss of dependency after applying multiplier	Rs.8400/-X17X12= Rs.17,13,600/-
5.	Conventional heads	Rs.70,000/-
	Total	Rs.17,83,600/-
	Enhanced amount of compensation	Rs.17,83,600/- --- Rs.14,74,000/- =Rs.3,09,600/-

Resultantly, the enhanced amount of compensation of Rs.3,09,600/- 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 Limited and Others passed 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

12.03.2018
anil

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

