

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.5423 of 2014

Date of Decision: 25.05.2018

Shakuntla and anr.

.....Appellants

Vs.

Rakesh and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.R.S.Malik, Advocate, for the appellants.

Mr.V.Ramswaroop, Advocate, for the respondent/Ins.Co.

RITU BAHRI J.(Oral)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 14.03.2014, passed by the learned Motor Accident Claims Tribunal, Sonipat (for short, 'the Tribunal') vide which compensation to the tune of Rs.4,49,000/- was awarded to the claimants on account of death of Bhagat Singh.

FACTS NOT IN DISPUTE

On 21.06.2013, deceased Bhagat Singh along with his maternal nephew Raj Kumar was returning to village Banwasa from village Gharonthi on the motor cycle bearing registration No.HR-12M-0784. The said motorcycle was being driven by Raj Kumar at a moderate speed while adhering to the traffic rules whereas the deceased Bhagat Singh was a pillion rider thereon. However, when they reached in the area of village Kahalpa, in the meantime, one Varna Car bearing registration No.HR-12Q-2900 (hereinafter referred to as "the offending vehicle") being driven by respondent No.1 in a rash and negligent manner came from the opposite direction and struck against their motor cycle. Due to this impact, Bhagat Singh fell down from the motor cycle and had sustained grievous injuries on various parts of his body whereas Raj Kumar sustained minor injuries. After making arrangement of a private vehicle, Raj Kumar brought the injured

Rohtak where during treatment he succumbed to the injuries on 22.06.2013. An FIR No.166 dated 22.06.2013 for the offence under Sections 279, 337, 304-A of the IPC was registered at Police Station Baroda, District Sonipat.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 60 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 Manual labourer	Rs.6000/-
2.	Deduction 50%	Rs.6000/- -- Rs.3000/-= Rs.3000/-
3.	Total loss of dependency after applying multiplier	Rs.3,000/- X 12 X 9= Rs.3,24,000/-
4.	Funeral expenses	Rs.25,000/-
5.	Loss of consortium	Rs.1,00,000/-
	Total	Rs.4,49,000/-

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 prospect 10%	Rs.6000/- + Rs.600/-= Rs.6600/-
3.	Deduction 1/3 rd	Rs.6600/- --- Rs.2200/-= Rs.4400/-
4.	Total loss of dependency after applying multiplier	Rs.4400/- X 12 X 9= Rs.4,75,200/-
5.	Conventional heads	Rs.70,000/-
	Total	Rs.5,45,200/-
	Enhanced amount of compensation	Rs.5,45,200/- --- Rs.4,49,000- =Rs.96,200/-

Resultantly, the enhanced amount of compensation of Rs.96,200/- 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