

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.426 of 2015

Date of Decision: 08.03.2018

Illamdeen and others

.....Appellants

Vs.

Dinesh and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Vikram Bali, Advocate, for the appellants.

Mr.Rajbir Singh, Advocate, for
Mr.Sanjeev Goyal, Advocate, for respondent/Insurance Co.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 13.08.2014, passed by the learned Motor Accident Claims Tribunal, SAS Nagar, Mohali (for short, 'the Tribunal') vide which compensation to the tune of Rs.8,22,800/- was awarded to the claimants on account of death of Gufran.

FACTS NOT IN DISPUTE

On 09.11.2012, the deceased Gafuran being a pillion rider on motorcycle No.PB-11-AZ-8758 being driven by Ilamdeen was going from her village towards Mani Majra. Ilamdeen was driving the motorcycle at slow speed on correct side of the road. At about 12:30 PM, they reached near Petrol Pump, Lakhnaur. Then offending truck bearing No.HR-38-Q-1383 being driven by respondent No.1 Dinesh Kumar in a rash and negligent manner and at a high speed came from behind without blowing horn and

struck against their motorcycle. Due to this accident, Ilamdeen feel on

Katcha portion of the road and suffered minor injuries. However, Gafuran fell in middle of the riad and was crushed under tyres of the offending truck. Gafuran was shifted to hospital where she was declared dead. An FIR No.180 dated 09.11.2012 under Section 279, 304-A IPC, Police Station Sohana was registered against respondent No.1-Dinesh Kumar.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 50 years old and the claimants had not produced any proof with regard to the 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.60000/- per annum
2.	Future prospect 15%	Rs.60,000/- + 9000=Rs.69,000/-
3.	Deduction 1/4th	Rs.69,000/- ---Rs.17,250/-= Rs.51,750/-
4.	Total loss of dependency after applying the multiplier	Rs.51,750/- X 13= Rs.6,72,750/-
5.	Loss of consortium	Rs.1,00,000/-
6.	Loss to estate	Rs.25,000/-
7.	Funeral Expenses	Rs.25,000/-
	Total	Rs.8,22,800/- rounded off.

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.

A reference is made to the judgment in the case of **United India Insurance Co.Ltd. vs. Sube Singh and others** passed in FAO No. 218 of 2014 by the co-ordinate bench of this Court wherein, income of a housewife has been assessed Rs.9,000/- per month and no deduction has been imposed because a house wife as a 'skilled worker' alone does not do complete justice to her multifarious role as a home manager. Keeping in view the lapse of 23 years between the accident in the case of **Lata Wadhwa** and the present accident and my conclusion that a house wife is something more than a mere skilled worker it would not be unreasonable to estimate the contribution of the deceased in the present case at a higher figure. As such, the income of the house wife has been taken as Rs.9,000/- per month and deduction will be imposed in view of the abovesaid judgment. The SLP against this judgment has been dismissed by the Apex Court.

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 income of the deceased is reduced and compensation has to be re-assessed as follows:-

Sr.No.	Heads of compensation	Amount
1	Income	Rs.9,000/- per annum
2.	Total loss of dependency after applying the multiplier	Rs.9,000/- X 12 X 13= Rs.14,04,000/-
5.	Conventional heads	70,000/-
	Total	Rs.14,74,000/-
	Enhanced amount of compensation	Rs.14,74,000/- ---- Rs.8,22,800/- = Rs.6,51,200/-

Resultantly, the enhanced amount of compensation of Rs.6,51,200/- 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

08.03.2018

anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No