

**HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO No.6060 of 2014(O&M)

Date of Decision: 21.02.2018

Vidya Sihag Devi

.....Appellant

Vs.

Ram Dhan and Ors.

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Manjeet Singh, Advocate, for the appellant.

Mr.Dheeraj Narula, Advocate, for
respondents No.1 and 2.

Mr.Sorabh Sharma, Advocate, for
respondent No.3-National Insurance Company Limited.

RITU BAHRI, J. (ORAL)

CM No.16674-CII of 2014

For the reasons stated in the application, delay of 304 days in
refiling the appeal is condoned.

Application stands disposed of.

Main Case

Present appeal has been preferred by the claimant-appellant (for
short 'the appellant'), against award dated 11.03.2013, passed by the learned
Motor Accident Claims Tribunal, Fatehabad (for short, 'the Tribunal') vide
which compensation to the tune of Rs.5,55,000/- was awarded to the
claimants on account of death of Shishpal Singh son of Maya Ram.

FACTS NOT IN DISPUTE

On 25.05.2011, the deceased Shishpal alongwith his nephew

namely Wazir Singh son of Mohan Lal was returning from Industrial Area Sirsa Road Fatehabad toward his residence at Model Town, Fatehabad on his Activa Scooter bearing registration No.HR-22-D-0666 which was being driven by Shishpal on a moderate speed, carefully with caution and by adhering of traffic rules. At about 6:30 p.m, when they reached near the T-point Ratia Turn, Wazir Singh desired to answer the call of nature for which Shishpal stopped the Activa just behind the T-point and thereafter Wazir Singh went to answer the call of nature and Shishpal was standing with his vehicle Activa in the katcha berm of the road. Meanwhile, a TATA ACE bearing registration No.HR-57-3403 came rashly and negligently, in a zig-zag manner from behind side i.e. from Sirsa side and rammed in the vehicle of Shishpal, due to which Shishpal received multiple, grievous and serious injuries on his person. He was rushed to General Hospital, Fatehabad, by Wazir Singh but Shishpal succumbed to the injuries on his way to hospital. An FIR No.240 dated 25.05.2011, for the offence under Sections 270, 304-A of IPC was registered.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 64 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	Rs.1,50,000/- per annum
2.	Deduction 1/2	Rs.1,50,000/- ---- Rs.75,000/- Rs.75,000/- per annum
3.	Annual loss of dependency after	Rs.75,000/- X 7=Rs.5,25,000/-

	applying the multiplier	
4.	Loss of consortium, love and affection etc.	Rs.20,000/-
	Funeral expenses	Rs.10,000/-
	Total	Rs.5,55,000/-

Learned counsel for the claimant-appellant contends that the compensation awarded by the Tribunal is on the lower side in view of the judgment of the Supreme Court in the case of **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. As per income tax return his income has been shown as Rs.1,80,000/- per month. As such, his income has been taking as Rs.1,80,000/- per month for reassessment of compensation. 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	Rs.1,80,000/- per annum
2.	Deduction 1/2	Rs.1,80,000/- ---- Rs.90,000/- Rs.90,000/- per annum
3.	Annual loss of dependency after applying the multiplier	Rs.90,000/- X 7=Rs.6,30,000/-
4.	Conventional heads	Rs.70,000/-
	Total	Rs.7,00,000/-
	Enhanced amount of compensation	Rs.7,00,000/- -Rs.5,55,000/-= Rs.1,45,000/-

Resultantly, the enhanced amount of compensation of Rs.1,45,000/- 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 @ 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

21.02.2018
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No