

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

FAO No. 4252 of 2016

Date of decision:- 20.02.2018

Smt. Raj Bala & Others

...Appellants

Versus

Pala Ram and Others

...Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Radhe Shyam Sharma, Advocate,
for the appellants.

Mr. Tarun Seth, Advocate,
for respondent No. 1.

Ms. Vandana Malhotra, Advocate,
for respondent No. 3- Reliance Gen. Ins. Co. Ltd.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Fatehabad (hereinafter referred to as 'the Tribunal') vide Award dated 12.01.2016, on account of death of Bhagat Ram in a motor vehicular accident which took place on 22.12.2014.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 22.12.2014, Rakesh Kumar (Claimant) and his father Bhagat Ram left their house for some personal work at Ratia-Fatehabad road towards Bus Stand of Village Ayalki and Bhagat Ram was having bicycle and he was on foot along with the bicycle with Rakesh Kumar(claimant) and when they reached near bus stand of village Ayalki, Fatehabad then Maxx Pick up bearing registration No. HR-62/3823 (hereinafter referred to as the “offending vehicle”) being driven by

respondent No. 1 at a high speed and in rash and negligent manner came from the side of Fatehabad and struck against Bhagat Ram due to which Bhagat Ram along with bicycle fell down and he sustained injuries on the various parts of his body including head and mouth. Thereafter, Bhagat Ram was shifted to General Hospital, Fatehabad where he was medico-legally examined and after that he was taken to Medicity Hospital, Hisar and unfortunately he succumbed to the injuries on 04.01.2015. In this regard, FIR No. 769 dated 23.12.2014 under Sections 279/337 of IPC was got registered against respondent No. 1. Consequently, claimants-appellants has filed the appeal before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had been caused on account of rash and negligent driving of respondent No.1 while driving offending vehicle. The claimants submits that at the time of accident, deceased was 45 years of age and as per the post mortem report Ex. P131, his age has been given as 47 years at the time of his death. He was agriculturist and used to run milk diary by keeping the buffaloes and used to earn @ Rs.35,000/- per month.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimant. No income proof has been found hence Tribunal took income of the deceased Bhagat Ram as @ Rs.6000/- per month. Hence, compensation awarded by the Tribunal as under :

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.6000/- per month
(ii)	1/4 th deducted towards personal expenses	Rs.6,000-1,500=4,500/- P.M.
(iii)	Multiplier applied	Rs.4,500X12X13=7,02,000/-
(iv)	Compensation towards funeral expenses	Rs.26,000/-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(v)	Compensation towards loss of consortium and estate	Rs. 1,00,000/-
(vi)	Compensation towards loss of love and affection	Rs. 1,00,000/-
(vii)	Compensation towards medical bills	Rs. 3,72,000/-
	Total Compensation Awarded	Rs.13,00,000/-

Feeling dissatisfied with the impugned award, the claimants-appellants have preferred the present appeal.

I have heard learned counsel for the parties and perused the case file.

REASSESSED COMPENSATION

The fact of accident is admitted and proved. In the peculiar facts and circumstances of the case, to meet the ends of justice and compensation awarded by the Tribunal requires to be reassessed keeping in view the judgments passed by Hon'ble the Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017)***, reassessed amount of compensation as under:

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.6000/- per month
(ii)	1/4 th deducted towards personal expenses	Rs.6,000-1,500=4,500/- P.M.
(iii)	25% added towards future prospects	Rs. 4500+1125=5,625/-
(iv)	Multiplier applied	Rs.5,625X12X13=8,77,500/-
(v)	Compensation towards conventional heads	Rs. 70,000/-
(vii)	Compensation towards medical bills	Rs. 3,72,000/-(remained same)
	Total Compensation Awarded	Rs.13,19,500/-
	Enhanced amount of compensation	Rs.13,19,500-13,00,000=19,500/-

The enhanced amount of compensation of **Rs.19,500 /-** shall be payable within a period of two months from the date of receipt of certified copy of this order. As per the judgment of Hon'ble Supreme Court in case **Shri Nagar Mal and Ors versus The Oriental Insurance Company Ltd. And Ors decided on 19.01.2018** the enhanced amount of compensation shall carry interest @ 7.5% per annum from the date of filing of the claim petition, till its realization.

Remaining conditions of disbursal of amount shall remain unaltered.

Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

20.02.2018

Riya Grover

(RITU BAHRI)

JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No