

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.4523 of 2016
Date of Decision: 03.04.2018

Nirmal Singh and others

.....Appellants

Vs.

Sukhwinder Singh @ Bhau & others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:-

Mr.Hemraj Kapil, Advocate, for the appellants.

Mr.Harsh Goyal, Advocate, for respondent No.1.

Mr.Aman Sharma, Advocate, for respondent No.2.

Mr.Neeraj Khanna, Advocate, with
Mr.Ravinder Arora, 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 14.01.2016, passed by the learned Motor Accident Claims Tribunal, Barnala (for short, 'the Tribunal') vide which compensation to the tune of Rs.5,30,000/- was awarded to the claimants on account of death of Pardeep Singh @ Deep in a motor vehicular accident.

FACTS NOT IN DISPUTE

On 01.04.2014, deceased along with Manjit Singh, Paranpal Tiwari son of Satwinder Pal Singh, resident of Moom and balwinder Singh son of Mohinder Singh, resident of Barhmi, PS Raikot were returning from Delhi in car No.PB10 EB 5315 and when they reached at Dhaba at dhanaula,

then all the said persons stopped on the said Dhaba where Motor cycle of Balwinder Singh was parked. There all of them had taken tea and then again started their journey to reach village Moom in the said car. They were followed by Balwinder Singh son of Mohinder Singh, resident of Barhmi on a motorcycle and when they reached near the Tandianwala Dhaba, then respondent No.1 while driving the bus No.PB-19-H-5570 in a rash and negligent manner, it it in the above said motor car in which deceased and others were travelling, as a result of which all the occupants of the car received multiple injuries on their bodies. The care was also badly damaged. At the time of accident deceased Pardeep Singh alias Deep was driving the car. All the injured were taken to Civil Hospital, Dhanaula were Pardeep Singh alias Deep was declared dead. On the basis of statement of Balwinder Singh FIR No.24 dated 02.04.2014 for the offence under Sections 279/337/338/427/304A IPC was registered at Police Station, Dhanaula.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 23 years old as per his postmortem report 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 notional income	Rs.5,000/- per month
2.	50% Deduction	Rs.5000 --- Rs.2500/-= Rs.2500/-
3.	Annual loss of dependency after applying the mutiplier.	Rs.2500/- X 12 X 17= Rs.5,10,000/-
4.	Funeral expenses	Rs.20,000/-
	Total	Rs.5,30,000/-

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 judgments, the compensation has to be re-assessed as follows:-

Sr.No.	Heads of compensation	Amount
1	Income as per daily wages	Rs.7,000/- per month
2.	Future prospect 40%	Rs.7,000/- + Rs.2800/-= Rs.9800/-
2.	50% Deduction	Rs.9800 --- Rs.4900/-= Rs.4900/-
3.	Annual loss of dependency after applying the mutiplier.	Rs.4900/- X 12 X 18= Rs.10,58,400/-
4.	Conventional heads	Rs.30,000/-
	Total	Rs.10,88,400/-
	Enhanced amount of compensation	Rs.10,88,400/- ---- Rs.5,30,000/- = Rs.5,58,400/-

Resultantly, the enhanced amount of compensation of Rs.5,58,400/- 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

03.04.2018
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No