

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

F.A.O No. 5557 of 2015

Date of decision:- 16.01.2018

Parmodani Devi and anr

...Appellants

Versus

Bali Singh and Others

...Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Vipul Sharma, Advocate,
for the appellants.

Mr. D.P. Gupta, Advocate,
for respondent NO. 3.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Ambala (hereinafter referred to as 'the Tribunal') vide award dated 06.02.2015, on account of death of Awnish Kumar Rana in a motor vehicular accident which took place on 24.10.2013.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 24.10.2013, Awnish kumar Rana along with his friends Sumit Kumar and Amit Kumar was returning from Kharar towards Ambala city in a car bearing registration No. HR 01AC 9313 make Ford Figo, being driven by deceased on correct left side of the road, at moderate speed. When at about 9.30 pm., they reached near Sigma Factory on Banoor Ambala City Road, within the area of village Basma, a tractor trolley came from Ambala City side; and truck bearing registration No. PB-23J9414 (now offending vehicle) also came from that side, being driven by respondent No. 1 rashly and negligently and at a high speed and hit

against the tractor trolley from back side. Due to said impact, tractor trolley became uncontrolled and turned turtle in side by ditches and thereafter, the offending vehicle hit against the car of the deceased, which also fell in the ditches. Due to the accident, deceased Awnish kumar Rana and sumit kumar who were sitting on the front seat of the car suffered serious injuries, where Amit Kumar received head injury. The driver of the tractor trolley namely Krishan Chand also sustained serious injuries, whereas other occupant thereof namely Milkhi Ram died in the accident. After causing the accident, respondent No. 1 fled from the spot, leaving the offending vehicle thereat. After the accident, Awnish was taken to AP jain Hospital, Rajpura, District Patiala, where he was declared dead. Sumit Kumar also died in the accident. In this regard FIR No. 203 dated 25.10.2013 under Sections 279/337/338/427 and 304-A IPC was registered against respondent No. 1 at Police Station Shambhu, District Patiala on the statement of Amit Kumar. Consequently, claimants-appellants filed a claim petition 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 negligent driving of offending truck by respondent No.1. The deceased was 23 years of age at the time of accident/death. This finding was rightly given on the basis of FIR, and others evidence led by the claimant. In accordance with documentary proof, income of deceased was assessed as Rs.3,27,834 (\$ 455.325), out of which, 1/3rd amount was deducted towards his personal expenses. While considering the multiplier of the claimants Tribunal put force on the ratio of judgment of Hon'ble Supreme Court in case titled as

New India Assurance Company Ltd. Versus Shanti Pathak, 2007 ACJ 2188 , wherein it was held by Hon'ble Supreme Court that the age of Claimants was required to be noticed and it was made basis for applying the multiplier. Hence the Tribunal took the multiplier of 11 in this case. The deceased was 23 years of age at the time of accident/death and the multiplier of 9 (the remainder multiplier during which deceased which have been married) was applied by the Tribunal. Thus, the claimants were found entitled to compensation of Rs.13,11,336/-. In addition to it Rs. One lacs was awarded to claimants towards loss of love and affection to claimant No. 1-Mother and Rs. 25,000/- towards funeral expenses. Hence, the claimants were found entitled to a total compensation of Rs.14,36,336/- along with interest @ 7.5% per annum from the date of filing of the petition till realization.

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

REASSESSED COMPENSATION

Learned counsel for the appellants, inter alia, has referred the judgment of Hon'ble Supreme Court in case titled as **Oriental insurance co. ltd. Versus Deo Patodi & ors. 2009(13) SCC 123** and stated that income of \$910.65 should be taken into consideration by deducting 1/4th as conversion rate and further put reliance upon the judgment of Hon'ble Supreme Court in case titled as **Bhogireddi Varalakshmi and others versus Mani Muthupandi and others in civil appeal no. 20882 of 2017 SLP No. 1636/2016** (decided on 05.12.2017) and also stated that the multiplier should also be reassessed after considering the age of the deceased not the

claimants and per the judgment of Hon'ble Supreme Court in case titled as *Sarla Verma and others vs. Delhi Transport Corporation and another* , 2009 (3) RCR (Civil) Page 77, multiplier should be 18 as per the age of the deceased.

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

The fact of accident is admitted and proved. It stands established that the deceased has died as a result of the accident. In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed and 40% future prospects also awarded to the claimant, in view of 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)* and learned counsel for the appellant further relied upon the latest judgments in the cases titled as *Bhogireddi (supra) and National Insurance company ltd. Versus Pranay Sethi and Ors. Decided on 22.11.2017* wherein it has been held that once if, amount is paid to the claimants will not be recovered back in absence of appeal by the insurance company, reassessed amount as under:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	US 910.65\$ Or Rs. 54,639/-
(ii)	1/4 th deduction from (i) for conversion (09 months)	Rs.54,639-13,660= Rs.40,979/-
(iii)	40% added towards future prospects	Rs.40,979 + Rs.16,392=Rs.57,371/-
(iv)	1/2 nd deducted towards personal expenses(being Bachelor)	Rs.57,371 -28,685= Rs. 28,686/-
(v)	Multiplier applied	Rs.28,686X12X18= 61,96,176/-p.a
(vi)	Funeral expenses	Rs. 25,000/-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(vii)	Conventional heads (compensation awarded in (v) and (vi) will remained same as amount given in these heads already released to claimants)	Rs. 1,00,000/- (compensation awarded in (v) and (vi) will remained same as amount given in these heads already released to claimants)
	Total Compensation awarded	Rs. 63,21,176/-
	Enhanced amount of compensation	Rs.63,21,176 -Rs.14,36,336=Rs.48,84,840/-

The enhanced amount of compensation of **Rs.48,84,840** /- shall be payable within a period of two months from the date of receipt of certified copy of this order. The enhanced amount of compensation shall carry interest @ 9% 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 the case of “*Kumari Kiran through her father Harinarayan vs. Sajjan Singh and others*”, 2015(1) SCC 539.

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.

16.01.2018

Riya Grover

(RITU BAHRI)

JUDGE

Whether speaking/reasoned

Whether reportable

Yes

No