

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.4881 of 2016
Date of Decision: 06.03.2018

Rajpal and others

.....Appellants

Vs.

Baldev Singh and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.R.K.Malik, Advocate, for the appellants.

Mr.Vinod Gupta, Advocate, for the respondent/Insurance Co.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 06.01.2016, passed by the learned Motor Accident Claims Tribunal, Kaithal (for short, 'the Tribunal') vide which compensation to the tune of Rs.8,40,720/- was awarded to the claimants on account of death of Manoj.

FACTS NOT IN DISPUTE

On 30.12.2014 complainant Ram Niwas was present at Titram turn and was purchasing some household articles, that at that time, he saw a motorcycle bearing No.HR-08L-1706 Hero Honda Splendor driven by Kapil and occupied by deceased Manoj as pillion rider, came from Kaithal side and turned towards Narwana side, that in the mean time, a truck bearing registration No.PG-23G-7505 being driven by its driver respondent No.1 in a rash and negligent manner and at a high speed and without blowing any

1706 from behind while going on wrong side that as a result of said impact, both occupants of above said motorcycle fell down on the road an sustained multiple, serious and grievous injuries. The driver of offending vehicle fled away after leaving the offending vehicle there at the spot. The deceased Manoj was died on the same day. An FIR No.106 dated 30.12.2014 for the offence under Sections 279/337/304-A IPC was registered in the Police Station Titram against respondent No.1.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 19 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	Salary per month (as minimum wages)	Rs.8580/-
2.	Deduction 1/2	Rs.8580/- ----Rs.4290/-= Rs.4290/-
3.	Annual loss of dependency after applying multiplier	Rs.4290/- X 12 X 14= Rs.7,20,720/-
4.	Last rite and transportation	Rs.20,000/-
5.	Love and affection	Rs.1,00,000/-
	Total	Rs.8,40,720/-

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 and submitted that deceased was 19 years old in 2014 and at that time minimum wages cannot be taken as granted by the learned MACT. As such his income should be taken as Rs.6,000/-.

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

Sr.No.	Heads of compensation	Amount
1	Salary per month (as per minimum wages at that time)	Rs.6,000/- per month
2.	Future prospect (40%)	Rs.6000/- + Rs.2400/-= Rs.8400/-
3.	Deduction 1/2	Rs.8400/- --- Rs.4200/-= Rs.4200/-
4.	Annual loss of dependency after applying the multiplier	Rs.4200/- X 12 X 18= Rs.9,07,200/-
5.	Conventional heads	Rs.30,000/-
	Total	Rs.9,37,000/-
	Enhanced compensation	Rs.9,37,000/- --- Rs.8,40,720/- = Rs.96,480/-

Resultantly, the enhanced amount of compensation of **Rs.96,480/-** 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

06.03.2018

anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No