

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.8335 of 2014
Date of Decision: 08.03.2018

Omwati and others

.....Appellants

Vs.

Anil Kumar and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Ajit Kumar, Advocate, for
Mr.R.D.Yadav, Advocate, for the appellants.

Mr.V.S.Rana, Advocate, for respondents No.1 and 2.

Mr.D.R.Bansal, 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 08.05.2014, passed by the learned Motor Accident Claims Tribunal, Rewari (for short, 'the Tribunal') vide which compensation to the tune of Rs.20,32,757/- was awarded to the claimants on account of death of Dilawar Singh.

FACTS NOT IN DISPUTE

On 07.11.2012 deceased-Dilawar Singh was going from Manesar to his village Musepur on his motorcycle bearing registration No.HR36Q-2779 and at about 8:30/9:00 p.m. when he reached near Rohdai turn, the offending car bearing registration No.HR26BB-1164 being driven by its driver rashly and negligently and at a high speed reached there from village Lala and gave a hit to the motor-cycle of the Dilwar Singh. As a result of

which Dilwar Singh fell down on the road and sustained multiple grievous

injuries on his body. He was taken to H-Way Hospital, Rewari, and from there he was taken to Aditya Hospital, Rewari where he succumbed to the injuries sustained by him in the accident. A criminal case bearing FIR No.117 dated 09.11.2012, under Sections 279/304A IPC was registered at Police Station, Rohdai.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 35 years old and the claimants had produced on the record the salary slip Ex.P10 of the deceased with regard to the 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 per salary slip Ex.P10 along with all allowances)	Rs.12,600/-
2.	Deduction 1/4	Rs.12,600/- ----Rs.3150/-= Rs.9450/-
3.	Annual loss of dependency after applying multiplier	Rs.9450/- X 12 X 16= Rs.18,14,400/-
4.	Funeral Expenses	Rs.25,000/-
5.	Medical Expenses	Rs.93,357/-
6.	Loss of consortium	Rs.1,00,000/-
	Total	Rs.20,32,757-

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.

Learned Tribunal while calculating the Award, deduction of entertainment allowance and education allowance has been made wrongly.

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 judgment, 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 salary slip Ex.P10 only basic pay) + Education allowances+Entertainme nt Allowance	Rs.9000/- +1,000/- +1270/=Rs.11,270/-
2.	Future prospect 40%	Rs.11270/- + Rs.4508/-=15778/-
3.	Deduction 1/4	Rs.15778/- ----Rs.3945/-= Rs.11833/-
4.	Annual loss of dependency after applying multiplier	Rs.11833/- X 12 X 16= Rs.22,71,936/-
5.	Medical Expenses	Rs.93,357/-
6.	Conventional heads	Rs.70,000/-
	Total compensation	Rs.24,35,293./-
	Enhanced amount of compensation	Rs.24,35,293./- --- Rs.20,32,757- =Rs.4,02,536/-

Resultantly, the enhanced amount of compensation of Rs.4,02,536/--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

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

08.03.2018

anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No