

**XOBJC No.86-CII of 2017 in/and
FAO No.9044 of 2014**

1

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

**XOBJC No.86-CII of 2017 in/and
FAO No.9044 of 2014
Date of Decision: 28.05.2018**

United India Insurance Company Ltd.Appellant

Vs.

Veer Pal Kaur and othersRespondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Vinod Chaudhary, Advocate, for the appellant.

Mr.S.S.Momi, Advocate, for
applicants/respondents/cross-objector.

Mr.Manmohan Saroop, Advocate, for respondent No.6.

Mr.R.S.Mamli, Advocate, for respondent No.7.

RITU BAHRI, J. (ORAL)

CM No.11215-CII of 2017

For the reasons mentioned in the application, delay of 723 days in
filing the cross-objection is condoned.

Application stands disposed of.

**XOBJC No.86-CII of 2017 in/and
FAO No.9044 of 2014**

Present appeal has been preferred by the appellant/Insurance
Company (for short 'the appellant'), against award dated 05.05.2014, passed
by the learned Motor Accident Claims Tribunal, Kurukshetra (for short, 'the
Tribunal') vide which compensation to the tune of Rs.20,02,000/- was
awarded to the claimants on account of death of Amrik Ram in motor

vehicular accident which took place on 12.02.2013.

A cross-objection has also been filed by the respondents/claimants for enhancement of compensation as granted by the learned Tribunal, Kurukshetra, vide Award dated 05.05.2014.

FACTS NOT IN DISPUTE

On 12.02.2013, Amrik Ram since deceased was going from his house to Atta Chakki on Dhand road. In the meantime, a truck bearing registration No.HR-45-2921 being driven by respondent No.1 Shamsheer Singh in a rash and negligent manner, dashed/hit Amrik Ram, who as a result of the accident sustained grievous injuries. He was taken to Mission Hospital, Pehowa, where he succumbed to injuries. Accident was witnessed by Malkeet Singh. A case bearing FIR No.43 was got registered on 13.02.2013.

Learned Tribunal has given its finding rightly with regard to issue No.1 as accident took place on account of rash and negligent driving of the driver i.e. respondent No.6-Shamsheer Singh as FIR no.43 was got registered on 13.02.2013 and as per postmortem report as Ex.P3, copy of report under Section 173 Cr.P.C. Ex.P1, death was occurred on account of accidental injuries.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 30 years old as per his postmortem report Ex.P3. The claimants have not produced any reliable proof of income so that learned Tribunal has taken his income as per daily wages prevalent at the time of accident. The factum of accident had been

Company herein. The compensation has been assessed as under:

Sr.No.	Heads of compensation	Amount
1	Income as per daily wages	Rs.6000/- per month
2.	Future prospect 50%	Rs.6,000/- + Rs.3,000/- =Rs.9,000/- per month
3.	Deduction 1/4th	Rs.9,000/- ---- Rs.2250/- =Rs.6750/- per month
4.	Total loss of dependency after applying multiplier	Rs.6750/- X 12 X 17= Rs.13,77,000/-
5.	Loss of love and affection	Rs.1,00,000/-
6.	Loss of consortium	Rs.1,00,000/-
7.	Funeral expenses	Rs.25,000/-
	Total	Rs.20,02,000/-

Learned counsel for the claimant-appellant contends that the compensation awarded by the Tribunal is on the higher side and deserves to be reduced, in view of the judgment **National insurance Company Ltd. Vs. Pranay Sethi and others passed in SLP (Civil) No.25590 of 2014.** On the other hand, the learned counsel for the respondents/cross-objector have vehemently opposed the present appeal and contends that the compensation awarded by the Tribunal is on the lower side and deserves to be enhanced.

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 salary	Rs.9,000/- per month

	sleep	
2.	Future prospect 40%	Rs.9,000 + Rs.3600/-= Rs.12,600/-
3.	Deduction 1/4th	Rs.12600/- ----Rs.3150/-= Rs.9450/-
4.	Annual loss of dependency after applying the multiplier	Rs.9450/- X 12 X 17= Rs.19,27,800/-
5.	Conventional heads	Rs.70,000/-
	Modified amount	Rs.19,97,800/-

Vide order dated 10.11.2014, it was ordered that on deposit of 50% of the awarded amount by the learned Tribunal, recovery of balance amount was stayed.

Resultantly, the modified amount of compensation of Rs.19,97,800/- 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 Limited and Others** Passed 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 and cross-objection is dismissed to the above extent.

(RITU BAHRI)
JUDGE

28.05.2018
anil

Whether speaking/reasoned Yes/No