

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.6536 of 2016
Date of decision:- 21.03.2018

Smt.Chanderpati

...Appellant

Versus

Darshan Singh @ Vicky and others

...Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Sandeep Kotla, Advocate, for the appellant.

Mr.R.C.Kapoor, Advocate, for the respondent/Insurance Co.

RITU BAHRI J. (Oral)

Present appeal has been preferred by the claimant-appellant (for short 'the appellant'), against award dated 04.08.2016, passed by the learned Motor Accident Claims Tribunal, Hisar (for short, 'the Tribunal') vide which compensation to the tune of Rs.5,50,000/- was awarded to the claimants on account of death of Dharmender.

FACTS NOT IN DISPUTE

On 15.12.2011, Dharmender alongwith Darshan Singh @ Vicky respondent No.1 and Vinod Kumar was going to Moonak Tehsil & District Karnal in the marriage party of Rakesh Kumar by driving in Indigo Car No.HR-20V-7272 driven by Darshan Singh. As such they reached some distance ahead of village Aardana towards Asandh District Karnal. Meanwhile truck came from opposite side and a motorcyclist with lady and child tried to cross the truck. As a result Darshan Singh lost control over the care due to high speed the care went into the ditches and struck against kikar tree. All occupants of the car sustained multiple serious injuries. They were rushed to General Hospital Karnal Asandh. They were medicolegally examined. Dharmender and Vinod Kumar were referred to General Hospital Karnal due to their grievous injuries. Darshan Singh remained under treatment at General Hospital, Asandh. Dharmender was taken to V.K.Neurocare and Research Hospital, Hisar where he remained admitted as

indoor patient and succumbed to injuries on 05.01.2012. Police recorded statement of Darshan Singh and lodged DDR No.35 dated 15.12.2011 by showing accident as per chance.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 20 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	Income as per minimum wages	Rs.3900/-
2.	Deduction 1/3	Rs.3900/- --- Rs.1300/-= Rs.2600/-
3.	Annual loss of dependency after applying multiplier	Rs.2600/- X 12 X 5= Rs.1,56,000/- and Rs.1300 X 12 X 13= Rs.2,02,800/- Total Rs.3,58,800/-
4.	Medical Expenses	Rs.1,38,004
4.	Funeral Expenses	Rs.25,000/-
5.	Love and affection	Rs.25,000/-
6.	Transportation and Misc. Expenses	Rs.3,196/-
	Total	Rs.5,50,000/-

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 "**Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77'; 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 minimum wages	Rs.5,000/-
2.	Future prospect 40%	Rs.5,000/- + Rs.2,000/-= Rs.7,000/-
3.	Deduction 50%	Rs.7000/- --- Rs.3500/-= Rs.3500/-
4.	Annual loss of dependency after applying multiplier	Rs.3500/- X 12 X 18= Rs.7,56,000/-
5	Medical Expenses	Rs.1,38,004/-
6	Conventional heads	Rs.30,000/-
	Total	Rs.9,24,004/- rounded off Rs.9,24,000/-
	Enhanced amount of compensation	Rs.9,24,000/- ----- Rs.5,50,000/- = Rs.3,74,000/-

Resultantly, the enhanced amount of compensation of Rs.3,74,000/- 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.

21.03.2018
anil

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned :</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>