IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.7028 of 2016
Date of Decision: 03.04.2018

Reena and anr. ....Appellants

Vs.

Kanwar Iqbal Singh and others ....Respondents

FAO No.6476 of 2016

Bharti Axa General Insurance Company Ltd. ....Appellant

Vs.

Reena and others ....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Ashwani Arora, Advocate, for the claimants.

Mr.Sanjeev Goyal, Advocate, for the respondent/Insurance Company.
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RITU BAHRI, J. (ORAL)

Present appeals i.e. FAO No.7028 of 2016 and FAO No.6476 of 2016 have been preferred by the claimants-appellants (for short 'the appellants'), and appellant/Insurance Company respectively against the award dated 30.07.2016, passed by the learned Motor Accident Claims Tribunal, Chandigarh (for short, 'the Tribunal') vide which compensation to the tune of Rs.16,45,000/- was awarded to the claimants on account of death of Vivek Kumar in a motor vehicular accident.

FACTS NOT IN DISPUTE

On 08.12.2015, deceased Vivek Kumar was going on the road leading from round-about of Sector 15/16, 23/24 Chandigarh towards traffic light points of Sector 15/16 while driving a motorcycle at slow speed in the correct lane on the dividing road of Sector 15/16. On side of the road i.e. from Sector 16 side was closed due to re-carpeting. When he had gone little ahead from the aforesaid chowk at that time a car bearing registration No.PB-10-DE-0063 came at fast speed in wrong lane from the opposite direction and while coming on the wrong side of the road, it struck against the motorcycle of the deceased bearing registration No.CH01 BB 3799. As a result of which the deceased fell on the road and received serious injuries. He was taken to GMSH, Sector 16, Chandigarh and from there he was referred to PGIMER Chandigarh where he died on the intervening night of 9/10.12.2015 at 2:15 am. A formal FIR No.493 dated 08.12.2015 was registered under Sections 279, 338 and 304-A of IPC at Police Station, Sector 11, Chandigarh, against respondent No.1.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 21 years old and he has completed B.Sc in computer science from Post Graduate Government college for boys in Sector 11, Chandigarh as disclosed by the claimants. Since Vivek Kumar deceased was a student at the time of accident and was of young age, therefore, considering the facts and circumstances of the present case, the learned Tribunal has taken his notional income as Rs.10,000/- for assessing the compensation. The factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company. The compensation has been assessed as under:

Sr.No.	Heads of compensation	Amount
1	Notional income	Rs.10,000/- per month
2.	Future prospect 50%	Rs.10,000/- + Rs.5,000/-= Rs.15,000/-

3.	Deduction 50%	Rs.15,000/- per month --- Rs.7500/-= Rs.7500/- per month
4.	Total loss of dependency after applying the multiplier 18	Rs.7500/- X 18 X 12= Rs.16,20,000/-
5.	Expenses incurred on Transportation, funeral and last rites	Rs.25,000/-
	Total	Rs.16,45,000/-

Learned counsel for the claimants-appellants contends that the compensation awarded by the Tribunal is on the lower side and deserves to be enhanced, in view of the judgments **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 respondent/Insurance Company have vehemently opposed the present appeal by way of filing another appeal.

RE-ASSESSED COMPENSATION

I have heard learned counsel for the parties and perused the record.

deceased was 21 years old and he has completed B.Sc in computer science from Post Graduate Government college for boys in Sector 11, Chandigarh as disclosed by the claimants. Since Vivek Kumar deceased was a student at the time of accident and was of young age. Since the accident took place on 08.12.2015 and therefore, considering the facts and circumstances of the present case, this Court is taking notional income of the deceased as Rs.12,000/- for assessing the compensation as the value of money is reducing.

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	Notional income	Rs.12,000/- per month
2.	Future prospect 40%	Rs.12,000/- + Rs.4800/-= Rs.16,800/-
3.	Deduction 50%	Rs.16,800/- per month --- Rs.8,400/-= Rs.8400/- per month
4.	Total loss of dependency after applying the multiplier 18	Rs.8400/- X 18 X 12= Rs.18,14,400/-
5.	Conventional heads	Rs.30,000/-
	Total	Rs.18,44,400/-
	Enhanced amount of compensation	Rs.18,44,400/- ---- Rs.16,45,000/-=Rs.1,99,400/-

Resultantly, the enhanced amount of compensation of Rs.1,99,400/- 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 claimants appeal is allowed and the appeal of the Insurance Company is dismissed.

(RITU BAHRI)
JUDGE

03.04.2018
anil

Whether speaking/reasoned Yes/No
Whether reportable Yes/No

Anil Kumar
2018.07.31 17:05
I attest to the accuracy and integrity of this document