

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

FAO No. 7455 of 2016

Date of decision:- 19.02.2018

Smt. Manisha Devi and Others

...Appellants

Versus

Sahbudin and Others

...Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Nishant Ghangas, Advocate,
for the appellants.

Mr. R. C. Kapoor, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Panipat (hereinafter referred to as 'the Tribunal') vide Award dated 28.04.2016, on account of death of Karambir Singh son of Balwant Singh in a motor vehicular accident which took place on 01.12.2014.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 01.12.2014, at about 8 o'clock, Raju son of Dharma alongwith Karambir were going to village Raja Kheri after finishing their work of plumber on a motorcycle bearing registration No. HR-06AC-9993. Raju son of Dharma was driving the said motor cycle while Karambir was sitting as a pillion rider. They reached near Bikaneri Sweet, GT Road, Gohana Turn, in the meantime, the offending truck bearing registration No. HR-56-7891 came from their back side and

the driver of the same was driving it in a rash and negligent manner and at a very high speed and he directly hit his truck against the motor cycle of Raju and Karambir. As a result of this impact, Raju fell down on the wrong side, while Karambir fell down on the main road and the offending truck crushed Karambir. The driver of the offending truck run away from the spot while leaving the offending truck on the spot. Raju shifted Karambir to Civil Hospital, Panipat, where concerned doctor referred him to PGIMS, Rohtak, however, on the way, Karambir succumbed to his injuries. A case vide FIR No. 1182 dated 2.12.2014 under Sections 279/304 IPC was registered against respondent No. 1 at Police Station Chandni Bagh, Panipat, on the statement of Raju son of Dharma. Consequently, claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had been caused on account of rash and negligent driving of respondent No.1 while driving offending vehicle. The claimants submits that at the time of accident, deceased was 26 years of age. He was a Plumber and his monthly earning was Rs.30,000/-.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimant. No cogent or relevant or admissible evidence was found to prove the income of the deceased, therefore, Tribunal took the income of the skilled labourer as income of the deceased, which is fixed under the payment of Wages Act by the Govt as Rs. 6290/- per month. Hence, compensation awarded by the Tribunal as under :

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.6,290/- per month
(ii)	1/ ⁴ th deducted towards personal expenses	Rs.6,290-1,573=4,717/- P.M.
(iii)	Multiplier applied	Rs.4,717X12X17=9,62,268/-
(iv)	Compensation towards funeral expenses	Rs.25,000/-
(v)	Compensation towards loss of consortium and estate	Rs. 50,000/-
(vi)	Compensation towards loss of love and affection	Rs. 50,000/-
(vii)	Compensation towards transportation	Rs. 10,000/-
	Total Compensation Awarded	Rs. 10,97,268/-

Feeling dissatisfied with the impugned award, the claimants-appellants have preferred the present appeal.

I have heard learned counsel for the parties and perused the case file.

REASSESSED COMPENSATION

The fact of accident is admitted and proved. In the peculiar facts and circumstances of the case, to meet the ends of justice and compensation awarded by the Tribunal requires to be reassessed keeping in view the judgments passed by Hon'ble the Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017)***, income of the deceased assessed by the Tribunal i.e. Rs. 6,290/- which is rounded of by this court to Rs.6,500. Hence income of the deceased assessed by this court @ Rs. 6,500/- per month being a skilled worker and reassessed amount of compensation as under:

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.6,500/- per month
(ii)	1/4 th deducted towards personal expenses	Rs.6,500-1,625=4,875/- P.M.
(iii)	40% added towards future prospects	Rs.4,875+1,950=6,825/-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(iv)	Multiplier applied	Rs.6,825X12X17=13,92,300/-
(iv)	Compensation towards conventional heads	Rs.70,000/-
	Total Compensation Awarded	Rs.14,62,300/-
	Enhanced amount of compensation	Rs. 14,62,300-10,97,268=3,65,032/-

The enhanced amount of compensation of **Rs.3,65,032/-** shall be payable within a period of two months from the date of receipt of certified copy of this order. As per the judgment of Hon'ble Supreme Court in case **Shri Nagar Mal and Ors versus The Oriental Insurance Company Ltd. And Ors decided on 19.01.2018** the enhanced amount of compensation shall carry interest @ 7.5% per annum from the date of filing of the claim petition, till its realization.

Remaining conditions of disbursal of amount shall remain unaltered.

Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

19.02.2018

Riya Grover

(RITU BAHRI)

JUDGE

Whether speaking/reasoned

Whether reportable

Yes

No