

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.1593 of 2017
Date of Decision: 06.03.2018

Sushila and others

.....Appellants

Vs.

Raja Ram and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Sudhir Rana, Advocate, for the appellants.

Ms.Vandana Malhotra, Advocate, for respondent No.3.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 20.10.2016, passed by the learned Motor Accident Claims Tribunal, Panchkula (for short, 'the Tribunal') vide which compensation to the tune of Rs.16,75,500/- was awarded to the claimants on account of death of Subhash.

FACTS NOT IN DISPUTE

On 21.04.2015, deceased Subhash while driving black colour Splendor motor-cycle bearing registration No.HR-01-Z-7404 on the correct left hand side of the road at a moderate speed at about 3:30 p.m reached near Government School within the area of Village kangwal on Ismailabad to Devigarh Road; that after crossing Balwinder Singh and Baldev Singh, Subhash had covered a distance of about 30-40 yards towards Devigarh and was on his correct left hand side of the road on katcha portion that in the

meantime, A Maruti Zen Car of white colour bearing registration No.HR-02-

D-8338 came from opposite side, driven by respondent No.1 in rash and negligent and zigzag manner and at a very high speed which leaving its correct left hand side of the road, came on its extreme wrong side of the road in katcha portion and right front side of the car hit against the motor cycle of Subhash. As result of that, deceased fell down on the road side and suffered multiple, simple and grievous injuries and his motorcycle was also damaged. He was rushed to PGI, Chandigarh where he succumbed to the injuries on 22.04.2015 during the course of treatment. An FIR No.24 dated 23.04.2015 for the offence under Sections 279, 304-A IPC was registered in Police Station Naggal, District Ambala, against respondent No.1 on the statement of one Balwinder Singh.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 30 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 per month (as minimum wages)	Rs.8500/-
2.	Deduction 1/4	Rs.8500/- ----Rs.2125/-= Rs.6375/-
3.	Annual loss of dependency after applying multiplier	Rs.6375/- X 12 X 17 = Rs.13,00,500/-
4.	Love and affection	Rs.2,50,000/-
5.	Consortium	Rs.1,00,000/-
6.	Last rites and transportation	Rs.25,000/-
	Total	Rs.16,75,000/-

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 "**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, compensation has to be re-assessed as follows:-

Sr.No.	Heads of compensation	Amount
1	Income per month (as minimum wages)	Rs.8500/-
2.	Future prospect 40%	Rs.8500/- + Rs.3400/- =Rs.11,900/-
3.	Deduction 1/4	Rs.11,900/- ----Rs.2975/-= Rs.8925/-
4.	Annual loss of dependency after applying multiplier	Rs.8925/- X 12 X 17 = Rs.18,20,700/-
4.	Conventional heads	Rs.70,000/-
	Total	Rs.18,90,700/-
	Enhanced amount of compensation	Rs.18,90,700/- ----- Rs.16,75,000/-= Rs.2,15,700/-

Resultantly, the enhanced amount of compensation of Rs.2,15,700/- 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.

(RITU BAHRI)
JUDGE

06.03.2018

anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No