

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.7558 of 2016 (O&M)

Date of Decision: 17.04.2018

Kamlesh and others

.....Appellants

Vs.

Suraj and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.S.S.Malik, Advocate, for the appellants.

Mr.Saurav Sharma, Advocate, for respondent/Insurance Co.

RITU BAHRI, J. (ORAL)

CM No.25688-CII of 2016

For the reasons stated in the application, delay of 90 days in re-filing the appeal is condoned.

Application stands disposed of.

CM No.25690-CII of 2016

For the reasons stated in the application, delay of 802 days in filing the appeal is condoned.

Application stands disposed of.

Main Case

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 28.05.2013, passed by the learned Motor Accident Claims Tribunal, Jhajjar (for short, 'the Tribunal') vide which compensation to the tune of Rs.6,44,000/- was awarded to the claimants on account of death of Rajinder son of Khazan Singh.

FACTS NOT IN DISPUTE

On 01.04.2010, Rajinder (since deceased) was going to Nirmana from Sumit Plastic Company, Bahadurgarh, District Jhajjar in his TATA-407 bearing registration No.HR-46-A-8997 along with Bijender son

of Lal Chand, resident of Dharam Vihar, Bahadurgarh. At about 2:30/3:00 p.m. they reached ahead of village Karnawas (Rewari), then one trailla bearing registration No.HR-55G-3231 came from the front side being driven by its driver in a rash and negligent manner and struck against the TATA-407. As a result therefore, ATA-407 over turned and Rajinder Singh sustained fatal injuries and succumbed to the injuries suffered by him. Conductor of the offending vehicle also died at the spot. An FIR No.114 dated 01.04.2010 under Section 279, 337, 304-IPC was registered in Police Station Model Town Rewari. The finding on issue number 1 has not been disputed by both the parties as the aforesaid FIR has been registered against the respondent No.1 as accident took place on account of his rash and negligent driving.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 35 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. The compensation has been assessed by the learned Tribunal as under:

Sr.No.	Heads of compensation	Amount
1	Income per month as per skilled labourer	Rs.5000/-
2.	Deduction on personal expenses	Rs.5000 --- Rs.1000= Rs.4000/-
3.	Annual loss of dependency after applying multiplier	Rs.4000/- X 12 X 13= Rs.6,24,000/-
4.	Transportation and Istrites of the deceased	Rs.20,000/-
	Total	Rs.6,44,000/-

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. In view of the above, and following the ratio of law laid down by Hon'ble the Supreme Court in the above mentioned judgment, the compensation has to be re-assessed as follows:-

Sr.No.	Heads of compensation	Amount
1	Salary per month	Rs.5,000/- per month
2.	Future prospect (40%)	Rs.5000/- + Rs.2000= Rs.7,000/-
2.	Deduction on personal expenses (1/4)	Rs.7,000/- --- Rs.1750/-= Rs.5250/-
3.	Annual loss of dependency after applying the multiplier	Rs.5250/- X 12 X 16= Rs.10,08,000/-
4.	Conventional Heads	Rs.70,000/-
	Total	Rs.10,78,000/-
	Enhanced compensation	Rs.10,78,000/- --- Rs.6,44,000/-= Rs.4,34,000/-

Resultantly, the enhanced amount of compensation of Rs.4,34,000/- 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.

(RITU BAHRI)
JUDGE

17.04.2018
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No