

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-898-2015

Date of decision: 15.05.2018

Abhishek Patel and others

...Appellants

V/s.

Harish Chander and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Tejinder Pal Singh, Advocate for the appellants.

Mr. Sanjeev Goyal, Advocate for
respondent No. 3-insurance co.

RITU BAHRI, J. (Oral).

The claimants have come up in appeal against the award dated 04.04.2014 passed by Motor Accident Claims Tribunal (for short 'the Tribunal') whereby they have been awarded a compensation of Rs.5,29,000/- on account of death of Vishwamitra Patel who died in a road accident that took place on 03.12.2011.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 03.12.2011, Vishwamitra Patel alongwith his son Abhishek Patel had come to Panipat on motorcycle No. HR-06H-4913. After completing the work, about 6:30 p.m., Abhishek was waiting for his father Vishwamitra Patel near Police Station Traffic Police Toll Plaza and his father was coming on the motorcycle from the side of Sector 18 and was approaching the traffic Police Station, a car bearing registration No. DL-8CR-0204 driven by respondent No. 1-Harish Chander

rashly and negligently hit the motorcycle which resulted into serious injuries and he was declared dead by the doctors of Civil Hospital, Panipat.

With regard to the alleged accident, Abhishek (an eye witness of the said accident) registered an FIR No. 1440 dated 04.12.2011 (Ex.P5) under Sections 279 and 304-A IPC at Police Station City, Panipat against respondent No. 1-Harish Chander. Consequently, the claimant-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

The parties are not in dispute with regard to finding on issue No. 1 that the accident took place on account of rash and negligent driving by respondent No. 1. This finding has been rightly given keeping in view that the FIR No. 1440 dated 04.12.2011 (Ex.P5) under Sections 279 and 304-A IPC at Police Station City, Panipat was registered against respondent No. 1 and the charge was framed against the accused vide order dated 10.03.2012 (Ex.P6).

The deceased was 45 years of age at the time of accident. The Tribunal has assessed the compensation as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.4500
(ii)	Annual income	4500 X 12=54000
(iii)	1/3 rd deduction for personal expenses	54000-18000=36000
(iv)	Compensation after multiplier of 14 applied	36000 X 14=504000
(v)	Loss of consortium	Rs.20,000/-
(vi)	Funeral expenses	Rs.5,000/-
(vii)	TOTAL COMPENSATION AWARDED	Rs. 5,29,000/-

Hence, the claimants were found entitled to total compensation of Rs.5,29,000/- along with interest @ 7.5% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-appellants have preferred the present appeal.

REASSESSED COMPENSATION

The fact of accident is admitted and proved. Finding of negligence has rightly been given by the Tribunal and it does not require any interference on that account. In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed in view of the judgments passed by Hon'ble the Supreme Court in *Sarla Verma and others vs. Delhi Transport Corporation and another*, 2009 (3) RCR (Civil) Page 77, *National Insurance Company Limited Vs. Pranay Sethi and others*, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017) and the minimum wages prevalent in the State of Haryana in the year 2011:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.5000
(ii)	25% future prospects	5000+1250=6250
(ii)	1/3 rd deduction for personal expenses	6250-2083=4167
	Compensation after multiplier of 14 applied	4167 X 12 X 14=700056
(iii)	Conventional head	Rs. 30,000
(vi)	TOTAL COMPENSATION AWARDED	Rs. 7,30,056/-
(vii)	ENHANCED AMOUNT OF COMPENSATION	Rs.7,30,056-5,29,000= Rs.2,01,056/-

The enhanced amount of compensation of **Rs.2,01,056/-** shall be payable within a period of two months 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 the case of “*Shri Nagar Mal and others V/s. The Oriental Insurance Company Ltd. and others in Civil Appeal No. 448 of 2018.*”

Remaining conditions of disbursal of amount shall remain unaltered.

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

(RITU BAHRI)
JUDGE

May 15, 2018
Divyanshi

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