

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.8064 of 2016

Date of Decision: 07.03.2018

Uma Jain and Others

....Appellants

V/S

Rashid Ahmed and Others

....Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present : Mr. Ravindra Jain, Advocate,
for the appellants.

Mr. Punit Jain, Advocate,
for Insurance Company.

RITU BAHRI, J.(Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (hereinafter referred to as 'the Tribunal') vide award dated 10.05.2016, on account of death of Vipin Kumar in a motor vehicular accident which took place on 09.01.2015.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 09.01.2015, at about 12 noon, Vipin Jain, since deceased, was crossing bus stand chowk, Jagadhri with due care and prudence but in the meantime, a dumper bearing No. HR-58-B-2735, being driven by respondent No.1, in a rash and negligent manner, came from opposite side i.e., from the side of Yamuna Nagar and struck against him, as a result of which, he became unconscious and fell down on the road. He was lifted up by one Vijay Sharma, with the help of other

passerby and was taken to Civil Hospital, Sector 32, Chandigarh but he succumbed to the injuries on the way near Bilaspur. It has been further pleaded that the accident was witnessed by said Vijay Sharma, who immediately after the accident reached at the spot but the driver of the offending vehicle fled away from the spot leaving behind his vehicle at the spot. In this regard an FIR No. 16 dated 09.01.2015 in respect of the accident in question was registered in police station, City, Jagadhri at the instance of eye witness, namely Vijay Sharma.

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 negligent driving of offending vehicle by driver. Claimants deposed that at the time of accident/death, deceased was 53 years of age and he was earning Rs.20,000/- per month by working as security man/watchman at night and was also running a grocery shop.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimants. As per the prevalent law at that time, Tribunal assessed the compensation as under:

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.8,100/-
(ii)	1/3 rd deducted towards personal expenses	Rs.8,100-2,700=5,400/-
(iii)	Multiplier applied	Rs.5400X12X11=7,12,800/-
(iv)	Compensation towards loss of love and affection	Rs.75,000/-
(v)	Compensation towards consortium to the widow	Rs.1,00,000/-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(vi)	Compensation towards funeral expenses and last rites	Rs.25,000/-
	Total amount of compensation	Rs.9,12,800/-(say Rs.9,13,000/-)

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

The present appeal has been filed for enhancement of compensation. Parties are not in dispute with the findings of issue no. 1 that accident took place due to the sole rash and negligent driving of respondent No. 1.

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

A perusal of the award shows that, compensation awarded by the Tribunal do not require any modification keeping in view the ratio laid down in the judgment of Hon'ble Supreme Court in case *National Insurance Company Ltd vs. Pranay Sethi and others, passed in Spl Leave Petition (Civil) No. 25590 of 2014, decided on October 31, 2017.*

Accordingly, present appeal stands dismissed.

07.03.2018
Riya Grover

(RITU BAHRI)
JUDGE

Whether speaking/reasoned Yes
Whether reportable No