

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.2603 of 2017 (O&M)

Date of Decision: 10.05.2018

Gayatri Devi and others

.....Appellants

Vs.

Amit Bhatia and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Gourav Kathuria, Advocate, for the appellants.

Mr.Vinod Gupta, Advocate, for the respondents.

RITU BAHRI, J. (ORAL)

CM No.8645-CII of 2017

For the reasons stated in the application, delay of 1201 days in filing the appeal is condoned.

Application stands disposed of.

CM No.8646-CII of 2017

For the reasons stated in the application, delay of 56 days in refiling 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 20.03.2013, passed by the learned Motor Accident Claims Tribunal, Faridabad (for short, 'the Tribunal') vide which compensation to the tune of Rs.19,05,000/- was awarded to the claimants on account of death of Ramu Sahni.

FACTS NOT IN DISPUTE

On 13.01.2011, the deceased was rideing motorcycle No.HR-51AA-2717 and was going to Sector 59, Faridabad from Dabua Colony, Faridabad and when he reached near turn of Sector 59, Faridabad then a

Swift Car bearing No.HR-51AJ-0700 being driven by respondent No.1 in a very rash and negligent manner and without blowing any horn came from behind and struck against the motorcycle of deceased as a result of which he fell in the drain of water on the road and suffered injuries due to which he scummed on the spot. An FIR No.25 dated 13.01.2011 under Sections 279, 304A IPC was registered in Police Station Sector 55 Faridabad.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 42 ½ years old and the claimants produced on the record the documentary evidence Ex.P13 and Ex.P14 i.e. copy of income tax return for the financial years 2007-08 and 2008-09 which shows that his gross total incomes for the said years were Rs.1,13,632/- and Rs.1,45,373/-. The learned Tribunal has held that since the income tax return shows that there was a rising trend in the income of the deceased as such, at the time of his death, the income of the deceased has been taken to be Rs.1,60,000/- per annum. 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	Salary per month	Rs.1,60,000/- per annum
2.	Future prospect 30%(reasonable increase)	Rs.1,60,000/- + Rs.20,000/-= Rs.1,80,000/-per annum
3.	Deduction 1/4 th	Rs.1,80,000/- ---- Rs.45,000/-= Rs.1,35,000/-
4.	Annual loss of dependency after applying the multiplier	Rs.1,35,000/- X 14= Rs.18,90,000/-
5.	Funeral Expenses	Rs.5,000/-
6.	Loss of consortium	Rs.5,000/-
7.	Loss of estate	Rs.5,000/-
	Total	Rs.19,05,000/-

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 judgments, the compensation has to be re-assessed as follows:-

Sr.No.	Heads of compensation	Amount
1	Salary per month	Rs.1,60,000/- per annum
2.	Future prospect 25%	Rs.1,60,000/- + Rs.40,000/-= Rs.2,00,000/-per annum
3.	Deduction 1/4 th	Rs.2,00,000/- ---- Rs.50,000/-= Rs.1,50,000/-
4.	Annual loss of dependency after applying the multiplier	Rs.1,50,000/- X 14= Rs.21,00,000/-
5.	Conventional heads	Rs.70,000/-
6.	Total	Rs.21,70,000/-
	Enhanced amount of compensation	Rs.21,70,000/- ---- Rs.19,05,000/-= Rs.2,65,000/-

Resultantly, the enhanced amount of compensation of Rs.2,65,000/- 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

10.05.2018
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No

