

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.3444 of 2017

Date of Decision: 23.05.2018

Kunta Devi @ Kanta Devi and others

.....Appellants

Vs.

Nirmal Singh and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Gaurav Aggarwal, Advocate, for the appellants.

Ms.Vandana Malhotra, Advocate, for respondent/Insurance Co.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimant-appellants(for short 'the appellants'), against award dated 14.09.2016, passed by the learned Motor Accident Claims Tribunal, Sirsa (for short, 'the Tribunal') vide which compensation to the tune of Rs.9,67,200/- was awarded to the claimants on account of a death of Kashi Ram in a motor vehicular accident.

FACTS NOT IN DISPUTE

On 31.01.2014, deceased Kashi Ram alongwith his son Ashok Kumar had gone to bus Stand, Bhaudeen, on a motorcycle bearing registration No.HR-24J-8017, hereinafter referred to as ill-fated motorcycle. Around 8.40 AM, when they halted the motorcycle at bus Stand, Bhaudeen, a Pick Up bearing temporary registration No.PB-11ZC(T)-0678, came from Fatehabad side which was being driven by respondent No.1 at a very high speed and in a rash and negligent manner and struck against the ill-fated motorcycle of the deceased. As a result thereof, both of them sustained

injuries on their persons and the motorcycle was also damaged. They were shifted to Civil Hospital,Sirsa. However, Kashi Ram succumbed to the injuries on the way to the hospital. The matter was reported to the police and a case bearing FIR No.19 dated 31.01.2014 under Sections 279, 304-A, 337, 338 and 427 IPC was registered at Police Station Ding.

COMPENSATION ASSESSED BY MACT

Learned Tribunal has taken the age of the deceased as 44 years as per postmortem report Ex.P4 Factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company. The compensation has been assessed as under:

Sr.No.	Heads of compensation	Amount
1	Income of the deceased as per casual labourer	Rs.8100/-
2.	Deduction	Rs.8100/- --- Rs.2700= Rs.5400/-
3.	Total loss of dependency after applying the multiplier	Rs.5400/- X 12 X 14= Rs.9,07,200/-
4.	Pain and suffering, Loss of consortium and love and affection	Rs.50,000/-
5.	Funeral expenses and transportation	Rs.10,000/-
	Total	Rs.09,67,200/-

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 in the case of "**National insurance Company Ltd. Vs. Pranay Sethi and others passed in SLP (Civil) No.25590 of 2014.** . 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.

The deceased was agriculturist and this fact was proved as jamabandi for the year 2011-2012 (Ex.P5) has been placed on record and he was doing business of dairy also. Keeping in view the above, income of the deceased is taken as Rs.8500/- per month.

It is not in dispute that the offending vehicle was fully insured with the Insurance company. Keeping in view the judgment referred above, the compensation has to be re-assessed as follows:-

Sr.No.	Heads of compensation	Amount
1	Income of the deceased as per casual labourer	Rs.8500/-
2.	Future prospect 25%	Rs.8500/- + Rs.2125/-= Rs.10,625/-
2.	Deduction 1/3rd	Rs.10625/- --- Rs.3542/= Rs.7,083/-
3.	Total loss of dependency after applying the multiplier	Rs.7,083/- X 12 X 14= Rs.11,89,944/-
4.	Conventional heads	Rs.70,000/-
	Total	Rs.12,59,944/-
	Enhanced amount of compensation	Rs.12,59,944/- ---Rs.9,67,200/- =Rs.2,92,744/-

Resultantly, the enhanced amount of compensation of Rs.2,92,744/-- 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 Limited and Others passed 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

23.05.2018

anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No