

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO No.3625 of 2017 (O&M)

Date of Decision: 21.03.2018

Raj Rani @ Rani Bhai & Others

.....Appellants

Vs.

Kuldeep @ Bittu & others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:-

Mr.Bikram Chaudhary, Advocate,
for applicant-appellants.

Mr.Parveen Kumar Rohilla, Advocate,
for respondent Nos.1 and 2.

Mr.Puneet Jain, Advocate, for
respondent No.3-Insurance Company.

RITU BAHRI, J. (ORAL)

CM No.11808-CII-2017

This application has been filed for condonation of delay of 308 days in filing the present appeal.

Reply has been filed by respondent/Insurance Company to this application. The same is taken on record.

For the reasons mentioned in the application, delay of 308 days in filing the appeal is condoned.

Main Case

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 23.12.2015, passed by the learned Motor Accident Claims Tribunal, Kaithal (for short, 'the Tribunal') vide

which compensation to the tune of Rs.12,66,745/- was awarded to the

claimants on account of death of Ravi alias Ravi Parkash son of Desh Raj in a motor vehicular accident.

FACTS NOT IN DISPUTE

On 25.03.2015, at about 6:30 p.m. Rajesh Kumar son of Ram Dular caste Ramdassia resident of village Arno (Punjab) alongwith Ravi (since deceased) and Bunty son of Raj Kumar resident of village Pharai went in the fields for roaming. At about 7:00 p.m. They were returning back and when they reached near the field of Vikram son of Jagdish resident of village Pharal, then one motorcyclist came from the back side plying it at a very high speed rashly and negligently without blowing any horn and struck the motorcycle against Ravi alias Ravi Parkash as a result of which, he fell down and sustained serious and grievous injuries on head, mouth and foot. Jagir Singh son of Krishan Lal r/o Pharal was going ahead of them and on hearing the noise of accident, he came back and rushed Ravi alias Ravi Parkash to Shah Hospital, Kaithal after arranging some vehicle where from injured/deceased Ravi alias Ravi Parkash was referred to Amar Hospital Patiala after giving first aid keeping in view the serious condition of Ravi. Thereafter, he was referred to Rajindera Hospital, Patiala where he succumbed to the injuries suffered by him. The FIR Ex.PJ has been registered on the statement of Rajesh Kumar son of Ram Dular resident of Village Arno.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 22 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

Company.

Sr.No.	Heads of compensation	Amount
1	Income as per daily wages	Rs.7100/- per month
2.	Annual loss of dependency	Rs.7100/- X 12=Rs.85200/-
3.	Deduction 1/3rd	Rs.85,200/- --- Rs.28400/-= Rs.56,800/-
4.	Annual loss of dependency after applying the multiplier	Rs.56,800/ X 18=Rs.10,22,400/-
5.	Funeral Expenses	Rs.20,000/-
6.	Love and Affection	Rs.1,00,000/-
7.	Consortium	Rs.20,000/-
8.	Medical expenses	Rs.79,345/-
9.	Transportation and pain and suffering	Rs.25,000/-
	Total	Rs.12,66,745/-

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 "**Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77'; 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. 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	Income as per daily wages	Rs.7100/- per month
2.	Future prospect 40%	Rs.7100/- + Rs.2840/-= Rs.9940/-
3.	Deduction 1/3rd	Rs.9940/- ----Rs.3313 =Rs.6627/- per month
4.	Annual loss of dependency after applying the multiplier	Rs.6627/- X12 X 18=Rs.14,31,432/-
5.	Medical expenses	Rs.79,345/-
6.	Conventional heads	Rs.70,000/-
	Total	Rs.15,80,777/-
	Enhanced amount of compensation	Rs.15,80,777/- ---- Rs.12,66,745/-=Rs.3,14,032/-

Resultantly, the enhanced amount of compensation of Rs.3,14,032/- 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

21.03.2018
anil

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