

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.4111 of 2017

Date of Decision: 10.05.2018

Nachhatar Kaur and ors.

.....Appellants

Vs.

Vinod Kumar and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Naveen Sharma, Advocate, for the appellants.

Ms.Sumati Jund, Advocate, for respondent No.2.

Mr.R.C.Kapoor, Advocate, for respondent/Insurance Company.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 10.01.2017, passed by the learned Motor Accident Claims Tribunal, Rupnagar (for short, 'the Tribunal') vide which compensation to the tune of Rs.14,29,360/- was awarded to the claimants on account of death of Avtar Singh.

FACTS NOT IN DISPUTE

On 30.03.2016, the deceased Avtar Singh was going from village Jalgran Tabbha towards Anandpur Sahib on motorcycle No.HP-20-E-1065. He was driving the motorcycle with proper care and caution and was on the left side of the road. When he reached in the revenue limits of village Dharoli near Baba Balak Nath Mandir on Nangal to Anandpur Sahib road then it was about 11:00 AM, that in the meanwhile, a Truck No.PB-10-AS-0465 driven by respondent No.1 rashly and negligently without blowing any horn (while reversing his truck towards the main road) struck the back side of truck with motorcycle of Avtar Singh. Due to impact, Avtar Singh fell down on the road and received multiple grievous injuries on head and other parts of the body. Then, Avtar Singh was taken to BBMP hospital Nangal

where succumbed to the injuries. An FIR No.43 dated 30.03.2016, under Sections 279, 304-A, 427 IPC was registered.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 44 years old and the claimants have failed to show any proof of income of the deceased nor could show any proof of income of deceased nor could show that the deceased was working as mason. 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	Income monthly as daily wager	Rs.7200/- per month
2.	Future prospect 30%	Rs.7200/- + Rs.2160/-= Rs.9360/-
3.	Deduction 1/4 th	Rs.9360/- ---- Rs.2340/-= Rs.7020/-
4.	Annual loss of dependency after applying the multiplier	Rs.7020 X 12 X 14= Rs.11,79,360/-
5.	Love and affection	Rs.1,00,000/-
6.	Loss of consortium	Rs.1,00,000/-
7.	Transportation and funeral charges	Rs.50,000/-
	Total	Rs.14,29,360/-

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	Income monthly (as per	Rs.9000/- per month

	daily wages at that time)	
2.	Future prospect 25%	Rs.9000/- + Rs.2250/-= Rs.11,250/-
3.	Deduction 1/4 th	Rs.11250/- ---- Rs.2810/-= Rs.8440/-
4.	Annual loss of dependency after applying the multiplier	Rs.8440 X 12 X 14= Rs.14,17,920/-
5.	Conventional heads	Rs.70,000/-
	Total	Rs.14,87,920/-
	Enhanced amount of compensation	Rs.14,87,920/- ---- Rs.14,29,360/-= Rs.58,560/-

Resultantly, the enhanced amount of compensation of Rs.58,560/- 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

