

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-4469-2017

Date of decision: 18.05.2018

Sharmila Devi and others

...Appellants

V/s.

Krishan Kumar and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Navmohit Singh, Advocate for the appellants.

Mr. V.K. Garg, Advocate for the insurance co.

RITU BAHRI, J. (Oral).

The claimants have come up in appeal against the award dated 26.10.2016 passed by Motor Accident Claims Tribunal, Narnaul (for short 'the Tribunal') whereby they have been awarded a compensation of Rs.6,16,000/- on account of death of Bijender Singh who died in a road accident that took place on 16.05.2011.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 15.05.2011, Bijender Singh alongwith Raj Kumar @ Rana had gone to village Jhakhala (Kosli) in Pick-Up No. HR66-0388 to attend the marriage of Vijay Singh. The aforesaid vehicle was being driven by Krishan Kumar (respondent No. 1). After attending marriage, they were coming back in the aforesaid vehicle. Around 1:30 AM on 16.05.2011 they reached near Mahasar power house, due to the fast speed, the offending vehicle turned turtle and Bijender and Raj Kumar @ Rana sustained grievous injuries. Bijender Singh died in Government hospital, Narnaul due to the injuries sustained in the accident.

With regard to the alleged accident, an FIR No. 66 dated 16.05.2011 (Ex.P6) under Sections 279, 337 and 304-A IPC at Police Station Ateli was registered against respondent No. 1. Consequently, the claimant-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

The parties are not in dispute with regard to finding on issue No. 1 that the accident took place on account of rash and negligent driving by respondent No. 1. This finding has been rightly given keeping in view that the FIR No. 66 dated 16.05.2011 (Ex.P6) under Sections 279, 337 and 304-A IPC at Police Station Ateli was registered against respondent No. 1. The driver was challaned (Ex.P3) and charge-sheeted (Ex.P5).

The deceased was 31 years of age at the time of accident. The Tribunal has assessed the compensation as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.4500
(ii)	Annual income	4500 X 12=54000
(iii)	1/3 rd deduction for personal expenses	54000-18000=36000
(iv)	Compensation after multiplier of 16 applied	36000 X 16=576000
(v)	Loss of consortium	Rs.20,000/-
(vi)	Loss of estate	Rs.10,000/-
(vii)	Funeral expenses	Rs.10,000/-
(viii)	TOTAL COMPENSATION AWARDED	Rs. 6,16,000/-

Hence, the claimants were found entitled to total compensation of Rs.6,16,000/- along with interest @ 6% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-appellants have preferred the present appeal.

REASSESSED COMPENSATION

The fact of accident is admitted and proved. Finding of negligence has rightly been given by the Tribunal and it does not require

any interference on that account. In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed in view of the judgments passed by Hon'ble the Supreme Court in *Sarla Verma and others vs. Delhi Transport Corporation and another*, 2009 (3) RCR (Civil) Page 77, *National Insurance Company Limited Vs. Pranay Sethi and others*, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017) and the minimum wages prevalent in the State of Haryana in the year 2011:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.4,500
(ii)	40% future prospects	4500+1800=6,300
(iii)	1/3 rd deduction for personal expenses	6300-2100=4,200
(iv)	Compensation after multiplier of 16 applied	4200 X 12 X 16=8,06,400
(v)	Conventional head	Rs. 70,000
(vi)	TOTAL COMPENSATION AWARDED	Rs. 8,76,400/-
(vii)	ENHANCED AMOUNT OF COMPENSATION	Rs.8,76,400-6,16,000= Rs.2,60,400/-

The enhanced amount of compensation of Rs.2,60,400/- shall be payable within a period of two months 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 the case of “*Shri Nagar Mal and others V/s. The Oriental Insurance Company Ltd. and others in Civil Appeal No. 448 of 2018.*” Remaining conditions of disbursal of amount shall remain unaltered.

Accordingly, the award stands modified to the above extent and the present appeal is allowed.

May 18, 2018
Divyanshi

(RITU BAHRI)
JUDGE

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