

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.4713 of 2017
Date of Decision: 06.03.2018

Santro Devi and Anr.

.....Appellants

Vs.

Dharam Pal and Ors.

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.D.S.Randhawa, Advocate, for the appellant.

Mr.Navin Kapur, Advocate, for respondent No.3.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 13.12.2016, passed by the learned Motor Accident Claims Tribunal, Kaithal (for short, 'the Tribunal') vide which compensation to the tune of Rs.6,54,000/- was awarded to the claimants on account of death of Sunil Kumar @ Anil Kumar.

FACTS NOT IN DISPUTE

On 06.03.2015, deceased Sunil @ Anil along with his friend Jagvinder @ Joginder started from Kaithal to village Dablain on motorcycle bearing No.HR-08N-1858, Make Hero Honda CD Delux, to meet his sister who himself was driving the motorcycle at moderate speed and on correct side of the road. They both were followed by their relative Balwinder on a separate motorcycle. On their way, they saw a truck bearing No.HR-09K-0197 coming from the opposite direction, which was being driven rashly and

came towards the middle of the road and without giving any indication or horn etc. suddenly, turned towards Surya Hotel, Bata, as a result of which it collided side ways with the motorcycle being driven by Sunil @ Anil. Consequently, deceased and his friend suffered serious head injuries. Both of them were rushed to the Government Hospital, where they were provided first aid treatment but on account of their delicate medical condition they were referred to GHCH, Sector 32, Chandigarh. Unfortunately, deceased Sunil @ Anil succumbed to the injuries and died there. An FIR No.39 dated 07.03.2015 was registered against the driver of the truck bearing No.HR-09K-0197 for the offence under Section 279, 337, 338 and 304-A IPC.

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 and the offending vehicle was insured with respondent No.3-Insurance Company.

Sr.No.	Heads of compensation	Amount
1	Income per month (as minimum wages)	Rs.6000/-
2.	Deduction 1/2	Rs.6000/- ----Rs.3000/-= Rs.3000/-
3.	Annual loss of dependency after applying multiplier	3000/- X 12 X 14 = Rs.5,04,000/-
4.	Funeral Expenses	Rs.50,000/-
5.	Love and affection	Rs.1,00,000/-
	Total	Rs.6,54,000/-

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. Following the ratio of law laid down by Hon'ble the Supreme Court in the above mentioned judgments, the income of the deceased is reduced and compensation has to be re-assessed as follows:-

Sr.No.	Heads of compensation	Amount
1	Salary per month (as per minimum wages)	Rs.8000/-
2.	Future prospect 40%	Rs.8000/- + Rs.3200/-= Rs.11,200/-
3.	Deduction 1/2	Rs.11,200/- ----Rs.5600/-= Rs.5600/-
4.	Annual loss of dependency after applying multiplier	Rs.5600/- X 12 X 18= Rs.12,09,600/-
5.	Funeral Expenses	Rs.30,000/-
	Total	Rs.12,39,600/-
	Enhanced amount of compensation	Rs.12,39,600/- ----- Rs.6,54,000/-= Rs.5,85,600/-

Resultantly, the enhanced amount of compensation of Rs.5,55,600/- 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

06.03.2018
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No