

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

FAO No. 5000 of 2017

Date of decision:- 26.03.2018

Pooja and Others

...Appellants

Versus

Som Dutt and Others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sat Narain Yadav, Advocate,
for the appellants.

Ms. Vandana Malhotra, Advocate,
for insurance company.

RITU BAHRI J. (Oral)

The present appeal has been filed by the claimants-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Rewari (hereinafter referred to as 'the Tribunal') vide Award dated 01.12.2016, on account of death of Pawan Kumar in a motor vehicular accident which took place on 24.11.2015.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 24.11.2015, Pawan Kumar, since deceased, alongwith Jogender Kumar, Ramesh Kumar, Satish, Raj Kumar and Sonu @ Som Dutt were coming from Charkhi Dadri to their village Gailpur via Bolni after attending the marriage party on vehicle No. HR-55 N -0275. It was being driven by Sonu @ Som Dut, Pawant Kumar, since deceased was sitting on the side front seat along the driver seat. At about 1 AM when they reached near village Buroli a nee Gai (cow) suddenly came on the road. Sonu @ Som Dutt tried to avoid the accident whereupon the vehicle became unbalanced and struck against the Kikkar tree by the side of the road. Pawan Kumar died at the spot due to injuries

sustained by him in the accident whereas other occupants of the vehicle sustained injuries. Pawan Kumar was brought to the Government Hospital where he was declared dead. In this regard, an FIR no. 8 dated 24.11.2015 was registered at PS Dahina.

Consequently, Claimants filed the claim petition before the Tribunal under Section 163-A of the Motor Vehicles Act, 1988.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had been caused on account of rash and negligent driving of respondent No.1 while driving offending vehicle. Claimants submits that at the time of accident, deceased was 25 years of age and he was a young man earning his livelihood by running a tyre puncture shop.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimants. Hence, compensation awarded by the Tribunal amount of Rs. 2,36,167/- after applying the multiplier of 17.

Feeling dissatisfied with the impugned award, the claimants-appellants have preferred the present appeal.

I have heard learned counsel for the parties and perused the case file.

REASSESSED COMPENSATION

The fact of accident is admitted and proved. In the peculiar facts and circumstances of the case, to meet the ends of justice and compensation awarded by the Tribunal requires to be reassessed keeping in view the ***The Second Schedule under Section 163-A of Motor Vehicle Accident Act, 1988*** appropriate multiplier would be 18 if the age of the

deceased 25 years. Hence, keeping in view the law laid down in Second Schedule under Section 163-A, reassessed amount of compensation as under:

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Income	Rs.40,000/-per annum
(ii)	1/3 rd deducted towards personal expenses as per the second Schedule of Section 163-A.	Rs.40,000-13,333=26,667/-
(iii)	After applying multiplier as per the II nd Schedule i.e. 18	26,667X18=4,80,006/-
(iv)	Compensation towards last rites and funeral	Rs.2000/-(remained same, not required to be changed)
(v)	Compensation towards loss of consortium to widow	Rs.5,000/-
(vi)	Compensation towards loss of estate	Rs.25,00/-
	Total reassessed amount of compensation	Rs.4,89,506/-
	Total Enhanced amount of compensation	Rs.4,89,506-2,36,167=2,53,339/-

The enhanced amount of compensation of **Rs.2,53,339/-** shall be payable within a period of two months from the date of receipt of certified copy of this order. As per the judgment of Hon'ble Supreme Court in case **Shri Nagar Mal and Ors versus The Oriental Insurance Company Ltd. And Ors decided on 19.01.2018** the enhanced amount of compensation shall carry interest @ 7.5% per annum from the date of filing of the claim petition, till its realization.

Remaining conditions of disbursal of amount shall remain unaltered.

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

26.03.2018

(RITU BAHRI)
JUDGE

Riya Grover

Whether speaking/reasoned

Whether reportable

Yes

No