IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Cross Objection No.210-CII of 2017 in/and
FAO No.5808 of 2017
Date of Decision: 30.04.2018

Pankaj Kumar ....Appellant

Vs.

Anita and others ....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Peeush Gagneja, Advocate, for the appellant.

Mr.Pawan Attri, Advocate, for the cross-objectors.

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RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimant-owners (for short 'the appellant'), against award dated 09.01.2017, passed by the learned Motor Accident Claims Tribunal, Kaithal (for short, 'the Tribunal') vide which compensation to the tune of Rs.16,22,760/- was awarded to the claimants on account of death of Sanjay @ Gandhi in a motorcycle vehicular accident dated 09.06.2016 and appellant was also held liable for payment of compensation.

On 09.06.2016, Ravi and his uncle Sanjay @ Gandhi came to Anaj Mandi, Kaithal for labour work. After finishing their work, they were returning to village Sanghan. Ravi was going on motor-cycle No.HR-08T-8108, while Sanjay @ Gandhi was going on another motor-cycle make Platina ahead of Ravi. Sanjay @ Gandhi was driving his motor-cycle on left side of the road, at moderate speed. At about 4:30 pm, when Sanjay @

Gandhi reached on Padla road, a pick up vehicle bearing registration No.PB-22J-7953 came from the opposite side, being driven by respondent No.1 Charanjit Pal in a rash and negligent manner. After coming on wrong side of the road, the pick-up hit motorcycle of Sanjay @ Gandhi due to which Sanjay @ Gandhi fell down on the road and the pick-up also went into the nearby fields. Respondent No.1 fled from the spot leaving his pick-up behind. After sometimes, an ambulance reached the spot and Sanjay @ Gandhi was shifted to Civil Hospital,Kaithal. Ravi came to the hospital on his motor-cycle. In the hospital, Sanjay @ Gandhi died due to accidental injuries. A case bearing FIR no.243 dated 09.06.2016 for the offence under Sections 279/304-A IPC was registered in Police Station,City Kaithal.

In para 27 of the Award of the learned Tribunal, it has been observed that respondent No.2 had sold the vehicle to respondent No.1 vide affidavits of sale and purchase dated 30.11.2015, copies of which were marked R2 and Mark R3. Reference was also made to cross-examination of RW1 who had admitted the purchase of the vehicle from respondent No.2 before the date of the accident. However, learned Tribunal has referred to the judgment in the case of P.P.Mohammad Vs. K.Rajappan and others 2003 ACJ 1595 wherein, it has been held that both the de facto and de jure owners i.e. respondents No.1 and 2 would be liable to satisfy the award jointly and severally. Therefore, respondent No.1 being driver and in possession of vehicle in question and respondent No.2 being registered owner of vehicle No.PB-22J-7953 were held jointly and severally liable to pay the assessed compensation to the claimants. Keeping in view the law laid down by the learned Tribunal, the appeal filed by the appellant/owner is dismissed.

CM No.23931-CII of 2017 in Cross Objection No.201-CII of 2017

For the reasons stated in the application, delay of 6 days in filing the cross-objection is condoned.

Application stands disposed of.

Cross Objection No.201-CII of 2017

The cross objection has been filed by the claimants/cross-objectors against the Award of the learned Tribunal dated 09.01.2017, passed by the learned Motor Accident Claims Tribunal, Kaithal vide which compensation to the tune of Rs.16,22,760/- was awarded to the claimants is stated to be on the lower side.

The Tribunal held that the deceased was 41-45 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 as per daily wages	Rs.8000/- per month
2.	Future prospect 30%	Rs.8000/- + Rs.2400/-= Rs.10,400/-
3.	Deduction 1/5rd	Rs.10,400/- --- Rs.2080/-= Rs.8320/-
4.	Annual loss of dependency after applying the multiplier	Rs.8320/ X 14 X12=Rs.13,97,760/-
5.	Funeral Expenses	Rs.25,000/-
6.	Love and Affection	Rs.1,00,000/-
7.	Consortium	Rs.1,00,000/-
	Total	Rs.16,22,760/-

Learned counsel for the claimant-appellant contends that the compensation awarded by the Tribunal is on the lower side and deserves to be enhanced. 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.8000/- per month
2.	Future prospect 40%	Rs.8000/- + Rs.3200/-= Rs.11,200/-
3.	Deduction 1/5th	Rs.11,200/- --- Rs.2240/-= Rs.8960/-
4.	Annual loss of dependency after applying the multiplier	Rs.8960/- X 15 X12=Rs.16,12,800/-
5.	Conventional heads	Rs.70,000/-
	Total	Rs.16,82,800/-
	Enhanced amount of compensation	Rs.16,82,800/- ----Rs.16,22,760/- =Rs.60040/-

Resultantly, the enhanced amount of compensation of Rs.60040/- 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 cross-objection is allowed and appeal is dismissed to the above extent.

(RITU BAHRI)
JUDGE

30.04.2018
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No