

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

**FAO No.5875 of 2017
Date of Decision: 08.03.2018**

Dalip Sharma and Anr.

.....Appellants

Vs.

Mukesh and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Anoop Kumar Yadav, Advocate, for the appellants.

Mr.Neeraj Yadav, Advocate, for the respondent No.1.

Mr.Pardeep Kumar, Advocate, for respondent/Insurance Co.

RITU BAHRI, J. (ORAL)

Present appeal has been preferred by the claimants-appellants (for short 'the appellants'), against award dated 13.01.2017, passed by the learned Motor Accident Claims Tribunal, Rewari(for short, 'the Tribunal') vide which compensation to the tune of Rs.10,64,400/- was awarded to the claimants on account of death of Neeraj.

FACTS NOT IN DISPUTE

On 21.07.2015, at about 3:00 p.m., deceased Neeraj along with Mukesh and Ram Bilas started their journey in Car No.WB6 G 5793 from Canal of village Guryani for Jakhala and the vehicle was being driven by Mukesh in a rash and negligent manner and at a high speed and hit the car in Neem tree. As a result of which, Sunil, Ram Bilas, Neeraj deceased and Mukesh sustained serious and grievous injuries on the vital part of their body. After the accident, someone called Ambulance and they shifted to PHC, Guryani and then referred to General Hospital, Rewari, where deceased Neeraj was expired. The FIR No.177 dated 21.07.2015 under Sections 279, 337, 304A IPC was registered in P.S.Kosli, regarding this accident.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 21 years old and the claimants had not produced any proof with regard to the income of the deceased. Learned Tribunal has held that as per Endst. No.425-524/DN dated 06.07.2015 of the office of Deputy Commissioner, Rewari, the maximum rate of wages of employees for the year 01.04.2015 to 31.03.2016 was fixed as Rs.9300/- per month in respect of an unskilled category No.1. As such, the income of the deceased was taken by the learned Tribunal as Rs.9300/- per month. 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	Rs.9300/-/- per month
2.	Deduction 50%	Rs.9300/- --- Rs.6500/-= Rs.6500/-
3.	Total loss of dependency after applying the multiplier	Rs.600/- X 12 X 18= Rs.10,04,400/-
4.	Loss of estate	Rs.20,000/-
5.	Funeral Expenses	Rs.20,000/-
6.	Non pecuniary damages	Rs.20,000/-
	Total	Rs.10,64,400/-

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 judgment, the income of the deceased is reduced and compensation has to be re-assessed as follows:-

Sr.No.	Heads of compensation	Amount
1	Income	Rs.9300/-/- per month
2.	Future prpspect 40%	Rs.9300/- + Rs.3720/-= Rs.13020/-
2.	Deduction 50%	Rs.13020/- --- Rs.6510/-= Rs.6510/-
3.	Total loss of dependency after applying the multiplier	Rs.6510/- X 12 X 18= Rs.14,06,160/-
4.	Conventional heads	Rs.30,000/-
	Total	Rs.14,36,160/-
	Enhanced amount of compensation	Rs.14,36,160/- ---- Rs.10,64,400/- =Rs.3,71,760/=

Resultantly, the enhanced amount of compensation of Rs.3,71,760/= 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

08.03.2018
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No