

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

FAO No. 6749 of 2017

Date of decision:- 27.02.2018

New India Assurance Co. Ltd.

...Appellant

Versus

Komal and Others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Paul S. Saini, Advocate,
for the appellant.

None for respondents.

RITU BAHRI J. (Oral)

The present appeal has been filed by the appellant against the Award dated 13.07.2017 passed by Motor Accident Claims Tribunal, Chandigarh, whereby claimants have been awarded with compensation of Rs.30,24,904/- on account of death of Ravi Kant Sharma in a road accident which took place on 29.01.2016.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 29.01.2016, Deepak Gupta, @ Deep along with Ravi Kant Sharma, since deceased, on motorcycle bearing registration No.PB-65-AA-1600, was returning home after attending a party at Manimajra, Chandigarh. In the way a canter carrying milk, make Swaraj Mazda bearing registration No. CH01TA-6985, being driven in rash and negligent manner came from the gate of Manimajra Complex and rammed against the motorcycle towards its right side. Due to impact, the motorcycle was struck against a pole and the occupants of the motorcycle fell on the road. Injured Ravi Kant Sharma was shifted to PGI,

Chandigarh where the Doctors on duty declared him having brought dead. It was further averred that the accident in question took place due to rash and negligent driving of above said Canter by respondent No.1. In this regard, FIR Ex.C7 has been lodged.

Consequently, Claimants filed the claim petition before the Tribunal.

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 respondents while driving offending vehicle. Claimants submits that at the time of accident, deceased was 32 years of age and was working with M/s Landmark, Elante Mall, Chandigarh. He was getting salary of Rs.15,000/- per month from his above said job.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimants. Hence, compensation awarded by the Tribunal as under :

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.12,500/- per month
(ii)	50% added towards future prospects	Rs.12,500+6250=18,750/-
(iii)	1/4 th deducted towards personal expenses	Rs.18,750-4688=14,062/- per month
(iv)	After applying appropriate multiplier by the Tribunal amount of compensations comes to	Rs.14,062X12X16=26,99,904,-
(v)	Compensation towards funeral expenses	Rs.25,000/-
(vi)	Compensation towards loss of consortium	Rs.1,00,000/-
(vi)	Compensation towards loss of care and guidance (claimant no. 2 and 3 Rs.1 lac each).	Rs.2,00,000/-
	Total Compensation Awarded	Rs.30,24,904/-

Feeling dissatisfied with the impugned award, appellant has preferred

the present appeal.

In the present case, Learned Counsel for the appellant, *inter alia*, referred the judgment of Hon'ble Supreme Court in case **National Insurance Company Limited Vs. Pranay Sethi and others, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017)**, and stated that compensation awarded by the Tribunal on higher side and the same required to be modified.

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

MODIFIED COMPENSATION

The fact of accident is admitted and proved. Keeping in view the facts and circumstances of the case insurance company is liable to pay the compensation amount to the claimants. In the peculiar facts and circumstances of the case, to meet the ends of justice and compensation awarded by the Tribunal is also requires to be modified keeping in view the judgments passed by Hon'ble the Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017)***, and modified amount of compensation as under:

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.12,500/- per month
(ii)	40% added towards future prospects	Rs.12,500+5000=17,500/-
(iii)	1/4 th deducted towards personal expenses	Rs.17,500-4375=13,125/- per month
(iv)	After applying appropriate multiplier by the Tribunal amount of compensations comes to	Rs.13,125X12X16=25,20,000/-
(v)	Compensation towards conventional heads	Rs.70,000/-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
	Total amount of compensation as per the latest judgment of Supreme Court Praney sethi (supra)	Rs.25,90,000/-
	Total amount of Compensation awarded by the Tribunal	Rs.30,24,904/-
	Amount required to be reduced	Rs.30,24,904-25,90,000/=-4,34,904

The modified amount of compensation of **Rs.25,90,000/-** 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.

27.02.2018

Riya Grover

(RITU BAHRI)

JUDGE

Whether speaking/reasoned

Whether reportable

Yes

No