

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.6884 of 2017
Date of Decision: 26.02.2018

Smt.Bimlesh Kumari and others

.....Appellants

Vs.

Het Ram and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Ashok Kaushik, Advocate, for the appellants.

Mr.Vinod Gupta, 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 22.03.2017, passed by the learned Motor Accident Claims Tribunal, Palwal (for short, 'the Tribunal') vide which compensation to the tune of Rs.11,70,000/- was awarded to the claimants on account of death of Sunil Kumar son of Om Parkash.

FACTS NOT IN DISPUTE

On 19.01.2016, the deceased Sunil Kumar was coming from village Hoshangabad to Village Rasulpur towards Palwal side and his claimant father Om Parkash was going to answer the call of nature, in the meanwhile, a Haryana Roadways Bus bearing registration No.North-38S-1200 driven by the respondent No.1 in a rash and negligent manner and also at a fast speed came from Rasulpur side and hit the above named Sunil on the wrong side due to which Sunil Kumar sustained multiple grievous and fatal injuries on his head and died at the spot. A criminal case vide FIR No.26 dated 19.01.2016 was registered against the respondent No.1 for the offence under Sections 279 and 304-A of IPC at Police Station Chandhat in respect of the accident in question.

COMPENSATION ASSESSED BY MACT

The Tribunal held that the deceased was 32 years old as per his

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 casual workman	Rs.7500/- X 12=Rs.90,000/- per annum
2.	Deduction on personal expenses 1/4th	Rs.90,000/- ---- Rs.22,500/-= Rs.67,500/-
3.	Annual loss of dependency after applying the multiplier	Rs.67,500/- X 16=Rs.10,80,000/-
4.	Loss of consortium	Rs.50,000/-
5.	Funeral expenses	Rs.20,000/-
6.	Loss of estate	Rs.20,000/-
	Total	Rs.11,70,000/-

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 judgment, the compensation has to be re-assessed as follows:-

Sr.No.	Heads of compensation	Amount
1	Income as per casual workman	Rs.7500/- X 12=Rs.90,000/- per annum
2.	Future prospect 40%	Rs.90,000/- + Rs.36000/-= Rs.1,26,000/-
3.	Deduction on personal expenses 1/4th	Rs.1,26,000/- ---- Rs.31,500/-= Rs.94,500/-
4.	Annual loss of dependency after applying the multiplier	Rs.94,500/- X 16=Rs.15,12,000/-

5.	Conventional heads	Rs.70,000/-
	Total compensation	Rs.15,82,000/-
	Enhanced amount of compensation	Rs.15,82,000/- --- Rs.11,70,000/- = Rs.4,12,000/-

Resultantly, the enhanced amount of compensation of Rs.4,12,000/- 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

26.02.2018
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No