

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 1009 of 2019

Date of decision: 15.10.2019

Mamta Devi and others

...Appellants

V/s.

Mohinder Singh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. J.S.Mahal, Advocate for the appellants.

Ms. Vandana Malhotra, Advocate for
respondent No. 3-insurance co.

RITU BAHRI, J. (Oral).

The claimants have come up in appeal against the award of the Tribunal dated 06.08.2018 whereby they have been awarded compensation of Rs.7,90,000/- on account of death of Gaurav Sharma who died in a road accident which took place on 26.08.2014.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 26.08.2014 deceased Gaurav Sharma was travelling from Kheri to Bani Khet, District Chamba (Himachal Pradesh), on motorcycle bearing No. PB-06-Q-4468 as pillion rider and motorcycle was being driven by one Satwinder Saini. When they reached near Majdhar Mor, offending bus bearing No. HP-47-342 had come from side of Bani Khet to Kheri. Bus was being driven by respondent No.1 very rashly and negligently and without blowing any horn had struck against motorcycle bearing driven by Satwinder Saini and Gaurav Sharma had died in this accident. Accident had occurred due to sole rash and negligent

driving of respondent No.1. Consequently, the claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

The parties are not in dispute with respect to finding on issue No. 1 that the accident took place on account of rash and negligent driving of respondent No. 1. This finding has been rightly given in favour of the claimants keeping in view FIR (Ex.P1) and deposition of CW2 Satwinder Saini, who was an eye witness to the accident.

The deceased was 34 years of age. The Tribunal had assessed monthly income of the deceased as Rs.5,000/- p.m. and assessed the following compensation:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	5,000/-p.m.
(ii)	1/4 th of (i) deducted as personal expenses of the deceased	5,000-1,250=Rs.3,750/-
(iii)	Compensation after multiplier of 16 is applied	3,750X12X16=Rs.7,20,000/-
(iv)	Consortium	Rs.40,000/-
(v)	Funeral expenses and transportation expenses	Rs.15,000/-
(vi)	Loss of estate	Rs.15,000/-
	TOTAL COMPENSATION AWARDED	Rs.7,90,000/-

Hence, the claimants were found entitled to total compensation of Rs.7,90,000/- along with interest @ 6% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimants-appellants have preferred the present appeal.

REASSESSED COMPENSATION

I have heard learned counsel for the parties and perused the case file. The fact of accident is admitted and proved. It stands established that the deceased has died as a result of the accident. Finding of negligence

has rightly been given by the Tribunal and it does not require any interference on that account.

The deceased was 34 years of age and the Tribunal had assessed his monthly income as Rs.5,000/- p.m. However, the minimum wages prevalent in State of Punjab in the year 2014 were Rs.6,500/-p.m. Hence, the income of the deceased is taken as Rs.6,500/-p.m. and the compensation is hereby reassessed keeping in view the judgments passed by Hon'ble the Supreme Court in *Magma General Insurance Company Ltd. V/s. Nanu Ram Alias Chuhru Ram and others*, Civil Appeal No. 9581 of 2018 and *National Insurance Company Limited Vs. Pranay Sethi and others*, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017) as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Annual Income	6,500X12=Rs.78,000/-
(ii)	40% increase as future prospects	78,000+31,200=Rs.1,09,200/-
(iii)	1/4 th deduction for personal expenses	1,09,200-27,300=Rs.81,900/-
(iv)	Total loss of dependency after applying multiplier of 16	81,900X16=Rs.13,10,400/-
(v)	Funeral expenses	Rs.15,000/-
(vi)	Loss of estate	Rs.15,000/-
(vii)	Loss of filial consortium	Rs.1,60,000/- (Rs.40,000/- each to all the four appellants)
	TOTAL COMPENSATION AWARDED	Rs.15,00,400/-
	ENHANCED AMOUNT OF COMPENSATION	15,00,400-7,90,000=Rs.7,10,400/-

The enhanced amount of compensation of **Rs.7,10,400/-** shall be paid within a period of two months from the date of receipt of certified copy of this order. The enhanced amount of compensation shall carry interest @ 9% 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 the case of *Dara Singh @ Dhara Banjara V/s. Shyam Singh Varma and*

others, Civil Appeal No. 4528 of 2019. Remaining conditions of disbursal of amount shall remain unaltered.

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

(RITU BAHRI)
JUDGE

15.10.2019
Divyanshi

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No