

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

FAO No.967 of 2002 (O&M)

Date of Decision: 15.10.2019

Kesri Devi and another

..Appellants

Vs.

Subash Chander and others

..Respondents

**CORAM: HON'BLE MS.JUSTICE RITU BAHRI**

Present: None for the appellants.

Mr.Punit Jain, Advocate for  
Mr.M.B.Jain, Advocate and Mr.Radhe Shyam Sharma,  
Advocate for respondent No.3.

**RITU BAHRI, J.**

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'the Tribunal') vide award dated 4.9.2001, on account of death of Rajinder Singh in a motor vehicular accident which took place on 15.01.1998. Appellants-claimants are the parents of deceased Rajinder Singh.

**FACTS NOT IN DISPUTE**

Brief facts of the case are that Rajinder Singh had died in a road accident which took place on 15.01.1998. Rajinder Singh @ Rajinder Kumar alongwith his father Sadhu Ram was going on scooter from Sangrur to Patiala. At about 1.30 p.m. when they reached near village Phaguwala on Sangrur-Patiala Road, a truck bearing registration No.PB-13F-0138 driven by respondent No.1 at a very high speed, rashly and negligently, struck against the right side of the scooter. As a result of which, Rajinder Singh

road. The said truck passed over the head of Rajinder Singh and he died at the spot. With regard to the alleged accident, an FIR was registered against the respondents. Consequently, claimant-appellants filed a 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 occurred on account of rash and negligent driving of offending truck by respondent No.1. This finding was rightly given on the basis of FIR (Ex.A2) and deposition of PW1 Sadhu Ram who was the injured and eye witness of the accident.

The deceased was 25 years of age and was unmarried at the time of death. While assessing the compensation, the Tribunal in paragraph 12 has observed that the deceased was serving as a Constable in Punjab Police and was drawing a salary of ₹5447/- per month. Claimant No.1, being mother of the deceased aged about 60 years and claimant No.2, being father of the deceased aged about 65 years were awarded lumpsum compensation of ₹1,20,000/- alongwith interest @ 9% per annum from the date of filing of petition till realization. Feeling dissatisfied with the impugned award, the claimant-appellants have preferred the present appeal.

**RE-ASSESSED COMPENSATION**

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

As per office report, keeping in view the order dated 08.07.2019, a letter was issued to Sh.Arun Sanghi, Advocate and it is revealed that he has expired in the year 2009 and hence, LR's of respondent No.2 could not be brought on record. However, keeping in view that

recovery rights have been given to respondent No.3 which is the Insurance Company.

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 compensation was required to be assessed keeping in view the age of the deceased and not keeping in view the age of the claimants. Therefore, in the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby re-assessed in view of the judgments passed by Hon'ble the Supreme Court in ***Magma General Insurance Company Ltd. Versus 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:

| <i>Sr.No.</i> | <i>Heads</i>                                          | <i>Calculations</i>                                    |
|---------------|-------------------------------------------------------|--------------------------------------------------------|
| (i)           | Income                                                | Rs.5447/- rounded off to Rs.5500x12=66,000/- per annum |
| (ii)          | 10% income tax of the income above (i) to be deducted | Rs.66,000-6600= Rs.59,400/-                            |
| (iii)         | 50% of income to be added as future prospects         | Rs.59,400+29,700= Rs.89,100/-                          |
| (iv)          | Compensation after multiplier is applied              | Rs.89,100x17=15,14,700/-                               |
| (iii)         | 50% of (iii) above is deducted as personal expenses   | Rs.15,14,700-7,57,350= Rs.7,57,350/-                   |
| (iv)          | Funeral expenses                                      | Rs.15,000/-                                            |
| (v)           | Loss of estate                                        | Rs.15,000/-                                            |
| (v)           | Loss of Filial Consortium                             | Rs.80,000/-(Rs.40,000/- each to both the appellants    |
| (vii)         | <b>Total Compensation awarded</b>                     | <b>Rs.8,67,350/-</b>                                   |
| (viii)        | <b>Enhanced amount of compensation</b>                | <b>Rs.8,67,350-1,20,000= Rs.7,47,350/-</b>             |

The enhanced amount of compensation of ₹7,47,350/- shall be payable within a period of two months from the date of receipt of certified

copy of this order and the Insurance Company will report to the Court regarding the payment of compensation to the appellants-claimants within three months. The enhanced amount of compensation shall carry interest @ 9% per annum from the date of filing the claim petition, till its realisation, in view of the judgment of Hon'ble the Supreme Court in the case of ***Dara Singh @ Dhara Banjara Versus Shyam Singh Varma and others, Civil Appeal No.4528 of 2019***. Recovery rights are maintained.

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

15.10.2019  
Meenu

( Ritu Bahri )  
Judge

Whether speaking/reasoned - Yes/No  
Whether Reportable - Yes/No