

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

**FAO No.2504 of 2001 (O&M)
Date of decision: 23.10.2019**

Smt. Taro Devi and others

....Appellants

Versus

Pala and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sunil Panwar, Advocate,
for the appellants.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Panchkula (hereinafter referred to as 'the Tribunal') vide award dated 19.01.2001 on account of death of Om Parkash in a motor vehicular accident which took place on 21.07.1997. Appellants No.1 is widow and appellant Nos.2 to 5 are children of deceased Om Parkash.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 21.07.1997, Om Parkash (since deceased) along with others was working as labourer on truck No. PUJ-9255 for loading and unloading of the stones on contract basis. After loading stones, the said truck was going from Khait Purali to Rattewali side and was being driven by Pala-respondent No.1 in a rash and negligent manner. At about 9.30 A.M., when they reached near village Tibbi,

suddenly the truck went off the road and turned turtle, as a result of which, all the occupants of truck suffered injuries. Baldev Singh, Ganga Parsad, Pappu and Om Parkash came under the stones loaded in the truck and died on the spot. With regard to the incident, FIR Ex.P1 was registered against respondent No.1. Consequently, the 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 had taken place on account of rash and negligent driving of the offending vehicle by its driver, which resulted into the death of Om Parkash. This finding was rightly given on the basis of deposition of Sham Lal (PW-2), who was eye witnesses of the accident. Apart from this, claimants have also proved on record copy of postmortem report of deceased as Ex.P2.

Deceased was a labourer. The Tribunal has assessed the income of deceased as Rs.1500/- per month i.e. Rs.18,000/- per annum, out of which, one-third amount was deducted towards his personal expenses. By doing so, the total income of deceased came to Rs.12,000/- per annum. The deceased was 38 years of age at the time of death/accident. Accordingly, multiplier of 16 was applied. After applying the multiplier of 16, dependency of claimants came to Rs.1,92,000/- (12,000/- x 16). In addition to it, Rs.2,000/- were awarded on account of funeral expenses, Rs.2500/- as loss of estate and Rs.5000/- to claimant No.1 on account of loss of consortium. Hence, the claimants were found entitled to total compensation of Rs.2,01,500/- along with interest @ 12% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned

award, the claimant-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. There is no dispute with regard to the finding given by the Tribunal on issue No.1. In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed in view of the judgments passed by Hon'ble the Supreme Court in Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77, National Insurance Company Limited vs. Pranay Sethi and others, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017), and Magma General Insurance Company Ltd. vs. Nanu Ram alias Chuhru Ram and others, Civil Appeal No.9581 of 2018, as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.1500/- per month
(ii)	40% of (i) above to be added as future prospects	1500 + 600 = Rs.2100/-
(iii)	1/5 th of (ii) above is deducted as personal expenses of the deceased	2100 – 420 = Rs.1680/-
(iv)	Compensation after multiplier of 15 is applied	Rs.1680/- x 12 x 15 = Rs.3,02,400/-
(v)	Loss of estate	Rs.15,000/-
(vi)	Funeral expenses	Rs.15,000/-
(vii)	Loss of consortium to widow-appellant No.1, including filial consortium, to the appellants No.1 to 5 and parents (respondent Nos.4 and 5), total 07 claimants.	Rs.40,000/-
(viii)	Loss of filial consortium to the children-appellant Nos.2 to 5	Rs.1,60,000/- (Rs.40,000/- each)

(ix)	Loss of filial consortium to the parents (respondent Nos.4 and 5)	Rs.80,000/- (Rs.40,000/- each)
(x)	TOTAL COMPENSATION AWARDED	Rs.6,12,400/-
(xi)	Enhanced amount of compensation	Rs.6,12,400 – 2,01,500= Rs.4,10,900/-

The enhanced amount of compensation of **Rs.4,10,900/-** shall be payable 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 vs. Shyam Singh Varma and others**, Civil Appeal No.4528 of 2019 (arising out of SLP (C) No.5720 of 2019) (decided on 01.05.2019). 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.

(RITU BAHRI)
JUDGE

23.10.2019
ajp

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