

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 1496 of 2002 (O&M)
Date of decision: 09.09.2019

Sehala Devi and others

...Appellants

V/s.

Gurcharan Singh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Atul Gaur, Advocate for
Mr. Sumeet Goel, Advocate for the appellants.

Mr. Vinod Gupta, Advocate for
respondent No.3- insurance co.

RITU BAHRI, J. (Oral).

Application for delay

For the reasons mentioned in the application, delay of 34 days
in filing the appeal is condoned.

Main case

The claimants have come up in appeal against the award of the
Tribunal dated 03.09.2001 whereby they have been awarded compensation
of Rs.2,90,000/- on account of death of Sagar Shah, who died in a road
accident which took place on 13.11.1999.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 13.11.1999 at about 6:20 p.m.
Deceased Sagar Shah, deceased Arun Paswan and claimant Dinesh, all
labourers, were going on foot on kacha by the side of the road. They were
hit by a truck No. PAT-7207 being driven by respondent No. 1 Gurcharan
Singh. In the above accident, deceased Sagar Shah and deceased Arun

Paswan sustained multiple injuries on their persons to which they succumbed there on the spot. 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 negligent driving by the driver of the offending vehicle. This finding has been rightly given in favour of the claimants keeping in view the FIR (Ex.P4), testimony of Dinesh as PW4 and the cross-examination of Multan Singh Ahlmad as PW1.

The deceased was 30 years of age as per the post mortem report Ex.P2 at the time of accident. The Tribunal had assessed monthly income of the deceased as Rs.2,000/- p.m. and assessed the following compensation:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	2,000/-p.m.
(ii)	¼ deduction for personal expenses	2000-500=Rs.1,500/-
(iii)	Annual loss of dependency after applying multiplier of 16	1,500X12X16=Rs.2,88,000/-
(iv)	Funeral expenses	Rs.2,000/-
	TOTAL COMPENSATION AWARDED	Rs. 2,90,000/-

Hence, the claimants were found entitled to total compensation of Rs.2,90,000/- along with interest @ 9% 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.

Hence, to meet the ends of justice, 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	2,000X12=Rs.24,000/-
(ii)	40% increase as future prospects	24,000+9,600=Rs.33,600/-
(iii)	¼ deduction for personal expenses	33,600-8,400=Rs.25,200/-
(iv)	Total loss of dependency after applying multiplier of 17	25,200X17=Rs.4,28,400/-
(v)	Funeral expenses	Rs.15,000/-
(vi)	Loss of estate	Rs.15,000/-
(vii)	Loss of filial consortium	Rs.2,00,000/- (Rs.40,000/- each to all the appellants)
	TOTAL COMPENSATION AWARDED	Rs.6,58,400/-
	ENHANCED AMOUNT OF COMPENSATION	6,58,400-2,90,000=Rs.3,68,400/-

The enhanced amount of compensation of **Rs.3,68,400/-** 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 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 present appeal is allowed.

Pending application (if any), stands dismissed.

(RITU BAHRI)
JUDGE

09.09.2019
Divyanshi

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