

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

**FAO No.5522 of 2002 (O&M)
Date of decision: 22.10.2019**

Nirmala Rani and others

....Appellants

Versus

Basant Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ashit Malik, Advocate,
for the appellants.

Mr. M.S. Sidhu, Advocate,
for respondent No.4.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal') vide award dated 10.04.2002 on account of death of Nathu Ram in a motor vehicular accident which took place on 26.02.1998. Appellants No.1 is widow, appellant Nos.2 to 4 are children and appellant No.5 was mother of deceased Nathu Ram.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 26.02.1998, Nathu Ram (since deceased) along with Naib Tehsildar, Dadkot, District Uttar Kashi and other staff members of his office had gone to Kafnol to inspect the Bus bearing No. UGA-9767, which met with an accident a day earlier. Nathu

Ram was owner of the said bus, so he accompanied the Government agency for inspection of the accidental bus. But, while returning from kafnol, he boarded a Jeep No.UP-09-0546 belonging to the respondents. Respondent No.1-Basant Singh was driving the jeep in a rash and negligent manner and could not control the same at a turning point, due to this reason, the jeep fell down in a deep *khad*. As a result of this accident, Nathu Ram received serious injuries and died. With regard to the incident, an FIR was registered against the driver of the offending vehicle. 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 Nathu Ram. This finding was rightly given on the basis of deposition of Vimal Parshad (PW-2), who was eye witnesses of the accident.

On the basis of evidence adduced by the claimants, Tribunal has assessed the income of deceased as Rs.3000/- per month, out of which, one-third amount was deducted towards his personal expenses. By doing so, the total income of deceased came to Rs.2000/- per month i.e. Rs.24,000/- per annum. The Tribunal has taken the age of deceased as more than 50 years. Accordingly, multiplier of 10 was applied. After applying the multiplier of 10, dependency of claimants came to Rs.2,40,000/- (24,000/- x 10). In addition to it, Rs.10,000/- were awarded on account of funeral expenses and loss of estate. Hence, the claimants were found entitled to total compensation of Rs.2,50,000/- along with interest @ 9% 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 that the accident had taken place on account of rash and negligent driving of the offending vehicle by its driver. 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.3000/- per annum
(ii)	25% of (i) above to be added as future prospects	3000 + 750 = Rs.3750/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	3750 – 937 = Rs.2813/-
(iv)	Compensation after multiplier of 14 is applied	Rs.2813/- x 12 x 14 = Rs.4,72,584/-
(v)	Loss of estate	Rs.15,000/-
(vi)	Funeral expenses	Rs.15,000/-

(vii)	Loss of consortium to widow-appellant No.1	Rs.40,000/-
(viii)	Loss of filial consortium to the children-appellant Nos.2, 3 and 4.	Rs.1,20,000/- (Rs.40,000/- each)
(ix)	Loss of filial consortium to the mother (appellant No.5)	Rs.40,000/-
(x)	TOTAL COMPENSATION AWARDED	Rs.7,02,584/-
(xi)	Enhanced amount of compensation	Rs.7,02,584 – 2,50,000 = Rs.4,52,584/-

The enhanced amount of compensation of **Rs.4,52,584/-** 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).

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

(RITU BAHRI)
JUDGE

22.10.2019
ajp

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