

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

**FAO No.1337 of 2007 (O&M)**

**Date of decision: 15.10.2019**

Santosh and others

....Appellants

Versus

Panna Lal and others

....Respondents

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

Present: Ms. Aarti, Advocate/Legal Aid Counsel,  
for the appellants.

Mr. Adarsh Jain, Advocate,  
for respondent No.2.

Mr. Lalit Garg, Advocate,  
for respondent No.3-Insurance Company.

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**RITU BAHRI J. (Oral)**

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Kurukshetra (hereinafter referred to as 'the Tribunal') vide award dated 08.01.2007 on account of death of Ramesh Chander in a motor vehicular accident which took place on 25.10.2005. Appellant No.1 is widow, appellant Nos. 2 to 4 are sons and appellant No.5 is mother of deceased Ramesh Chander.

**FACTS NOT IN DISPUTE**

Brief facts of the case are that on 25.10.2005, at about 8.00 A.M., Ramesh Chander (since deceased) was coming from village Sunderpur to Braham Sarover road leading to G.T. Road, Pipli on a motorcycle No.HR-07-D-4135. When he crossed the T-point, in the

meantime, a bus bearing registration No. HR-37-7654, being driven by Panna Lal-respondent No.1 in a rash and negligent manner, came and struck against the motorcycle of Ramesh Chander, as a result of which, he (Ramesh Chander) received injuries. The accident was witnessed by Karam Chand and Sumer Chand, who shifted the injured to Ashirwad Nursing Home, Kurukshetra, where he succumbed to the injuries. With regard to the incident, an FIR No. 434 dated 25.10.2005, under Sections 279/304-A IPC was registered at Police Station, City, Thanesar, 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 Ramesh Chander. This finding was rightly given on the basis of deposition of Karam Chand (PW-3), who was eye witnesses of the accident and on whose statement, FIR Ex.P4 was registered. Apart from this, claimants have also proved on record copy of report under Section 173 Cr.P.C. Ex.P3, postmortem report as Ex.P5 etc.

The deceased was posted in Haryana Police. As per documents Ex.R4 to Ex.R13, he was getting a total salary of Rs.13,882/- per month. After deducting a sum of Rs.520/-, salary of the deceased was taken by the Tribunal as Rs.13,362/- per month, out of which, one-third (1/3) amount was deducted towards his personal expenses. By doing so, remaining income of deceased came to Rs.8908/- per month i.e. Rs.1,06,896/- per annum. The deceased was 52 years of age at the time of death/accident.

Multiplier of 06 was applied. After applying the multiplier of 06, dependency of claimants came to Rs.6,41,376/- (1,06,896/- x 06). In addition to it, Rs.10,000/- were awarded on account of funeral expenses. Hence, the claimants were found entitled to total compensation of Rs.6,51,376/- along with interest @ 7.5% 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 respect 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.13,362/- per month       |
| (ii)    | 10% of (i) above to be added as future prospects | 13,362 + 1336 = Rs.14,698/- |

|        |                                                                                  |                                                 |
|--------|----------------------------------------------------------------------------------|-------------------------------------------------|
| (iii)  | 1/4 <sup>th</sup> of (ii) above is deducted as personal expenses of the deceased | 14,698 – 3674 = Rs.11,024/-                     |
| (iv)   | Compensation after multiplier of 11 is applied                                   | Rs.11,024/- x 12 x 11 = Rs.14,55,168/-          |
| (v)    | Loss of estate                                                                   | Rs.15,000/-                                     |
| (vi)   | Funeral expenses                                                                 | Rs.15,000/-                                     |
| (vii)  | Loss of consortium to the widow i.e. appellant-claimant No.1                     | Rs.40,000/-                                     |
| (viii) | Loss of filial consortium to children i.e. appellant Nos.2, 3 and 4              | Rs.1,20,000/- (Rs.40,000/- each)                |
| (ix)   | Loss of filial consortium to mother i.e. appellant No.5                          | Rs.40,000/-                                     |
| (x)    | <b>TOTAL COMPENSATION AWARDED</b>                                                | <b>Rs.16,85,168/-</b>                           |
| (xi)   | <b>Enhanced amount of compensation</b>                                           | <b>Rs.16,85,168 – 6,51,376 = Rs.10,33,792/-</b> |

The enhanced amount of compensation of **Rs.10,33,792/-** 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

15.10.2019  
ajp

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