

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

**FAO No.2900 of 2007
Date of decision: 04.09.2019**

Smt. Giarsi

....Appellant

Versus

Sube Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. S.K. Bhardwaj, Advocate,
for the appellant.

Mr. R.K. Bashamboo, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Bhiwani (hereinafter referred to as 'the Tribunal') vide award dated 05.02.2007, on account of death of Suraj Bhan in a motor vehicular accident which took place on 06.09.2005. Appellant is mother of deceased Suraj Bhan.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 06.09.2005, Suraj Bhan (since deceased) along with Dharmender Singh was going on a motorcycle No. HR-34-0657. The said motorcycle was being driven by Dharmender Singh, whereas Suraj Bhan was a pillion rider. When they reached near bus-stand of village Samsawas, in the meantime, a tractor bearing registration No.HR-18-A-1790, being driven by Sube Singh-respondent No.1 in a rash and

negligent manner, came from the side of village Samaswas and struck

against the motorcycle, as a result of which, both Suraj Bhan and Dharmender Singh fell down on the road and received multiple and serious injuries. They were shifted to PGIMS, Rohtak. However, Suraj Bhan succumbed to the injuries. With regard to the accident, FIR No.75, under Sections 279/337/304-A IPC was registered against respondent No.1. Consequently, the claimant-appellant 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 offending vehicle by respondent No.1, as a result of which Suraj Bhan has died and thus, returned finding on issue no.1 in favour of the claimants. This finding was rightly given on the basis of the deposition of Jagmal (PW-2) and Dharmender (PW-4), who were eye witnesses of the accident. Further, the claimant has proved on record copy of report under Section 173 Cr.P.C. Ex.P1, FIR Ex.P2, charge-sheet Ex.P3 and postmortem report of deceased as Ex.P4.

As per deposition of Giarsi (PW-1), her son Suraj Bhan (since deceased) was running a shoe and C.D. Radio repair shop. He used to earn Rs.6000/- per month from this shop. The deceased was 24-25 years of age at the time of accident/death. He was unmarried. However, in the absence of any documentary evidence, appellant-claimant was found entitled to a consolidated compensation of Rs.1,50,000/- along with interest @ 9% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-appellant has 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. Parties are not in dispute with respect to the findings 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 respondent No.1.

The deceased was 24-25 years of age. Accident, in the present case, took place on 06.09.2005. Keeping in view minimum wages, at that time in State of Haryana, income of deceased is being assessed at Rs.2500/- per month. Hence, 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 Co. Ltd. vs. Nanu Ram alias Chuhru Ram & Ors.**, 2018 (4) RCR (Civil) 333, as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.2500/- per month
(ii)	40% of (i) above to be added as future prospects	2500 + 1000 = Rs.3500/-
(iii)	50% of (ii) above is deducted as personal expenses of the deceased	3500 – 1750 = Rs.1750/-
(iv)	Compensation after multiplier of 18 is applied	Rs.1750/- x 12 x 18 = Rs.3,78,000/-
(v)	Compensation on account of loss of estate	Rs.15,000/-

(vi)	Funeral expenses	Rs.15,000/-
(vii)	Loss of filial consortium to the mother-appellant	Rs.40,000/-
(viii)	TOTAL COMPENSATION AWARDED	Rs.4,48,000/-
(ix)	Enhanced amount of compensation	Rs.4,48,000 – 1,50,000 = Rs.2,98,000/-

The enhanced amount of compensation of **Rs.2,98,000/-** 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 keeping in view the judgment passed by Hon'ble the Supreme Court in **Dara Singh @ Dhara Banjara vs. Shyam Singh Verma & 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

04.09.2019
ajp

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