

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

**FAO-2362-2006
Date of decision: 24.07.2019**

Sheela Devi and others

...Appellants

V/s.

Jatinder Singh alias Goldy and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. R.N. Moudgill, Advocate for the appellants.

Mr. Pardeep Goyal, Advocate for the
respondent-insurance co.

RITU BAHRI, J. (Oral).

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Gurdaspur (hereinafter referred to as 'the Tribunal') vide award dated 03.11.2004 on account of death of Ashwani Kumar in a motor vehicular accident which took place on 20.02.2002. Appellants No. 1 and 2 are the parents of the deceased whereas appellant No. 3 is the brother of the deceased.

FACTS NOT IN DISPUTE

Brief facts of the case are that Ashwani Kumar had died in a road accident which took place on 20.02.2002. He alongwith Rajeshwar Singh, Ashwani Kumar son of Thuru Ram, Manjit Singh and Balram Sharma on tempoo No. PB-06C-2314 were returning from village Jandwal.

At about 1;15 p.m. tempoo was near village Chhatwal on G.T. Road, when

truck No. HR-29 GA-0155 came from the opposite side. Truck was being driven rashly and negligently by Jatinder Singh. Truck was struck against the tempoo and passengers in the tempoo received multiple injuries. Ashwani Kumar had succumbed to the injuries in civil hospital Pathankot.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the finding had been rightly answered in favour of the claimants that accident took place due to rash and negligent driving of the offending truck and an FIR (Ex.A5) was registered. Ex. A6 is a copy of the post mortem report which shows that injuries were ante mortem in nature.

Learned counsel for the insurance company further states that FAO No. 2652 of 2005 had been filed by the owner of the offending vehicle which had been allowed and right of recovery to the insurance company had been set aside. Hence the insurance company is liable to make payment of compensation.

The deceased was a student of 10+2 class and was 18 years of age. The Tribunal had assessed the compensation taking the income of the deceased as Rs.2,500 and the lumpsum compensation of Rs. 1,00,000/- had been given to the claimants alongwith 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. Finding of

negligence has rightly been given by the Tribunal and it does not require any interference on that account. In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed keeping in view the income of the deceased as Rs.2,200/-p.m as per the minimum wages prevalent in Punjab in the year 2002 and 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)	Income	Rs.2200 X12=Rs.26,400 p.a.
(ii)	40% of (i) above to be added as future prospects	26,400+10,560=36,960
(iii)	1/2 nd of (ii) above is deducted as personal expenses of the deceased	36,960-18,480=18,480
iv)	Compensation after multiplier of 18 applied	18,480X18=3,32,640/-
(v)	Conventional head	70,000/-
(vi)	Loss of Filial Consortium	Rs.1,20,000/- (Rs.40,000/- each to all the appellants)
(vii)	TOTAL COMPENSATION AWARDED	Rs. 5,22,640/-
(viii)	ENHANCED AMOUNT OF COMPENSATION	Rs.5,22,640-Rs.1,00,000 = Rs. 4,22,640/-

The enhanced amount of compensation of **Rs.4,22,640/-** 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.

(RITU BAHRI)
JUDGE

24.07.2019
Divyanshi

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