

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

FAO No.3490 of 2006 (O&M)

Date of decision: 21.08.2019

Karnail Kaur and others

....Appellants

Versus

Devinder Singh and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. S.S. Salar, Advocate,
for the appellants.

None for the respondents.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Sangrur (hereinafter referred to as 'the Tribunal') vide award dated 21.02.2006 on account of death of Gurcharan Singh in a motor vehicular accident which took place on 23.08.2003. Appellant No.1 is widow, appellant Nos.2 & 3 are sons and appellant No. 4 is father of deceased Gurcharan Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 23.08.2003, after grazing cattle, Gurcharan Singh (since deceased) along with his son Jaswant Singh was returning towards his house at village Bhindra. In the meantime, a mini bus No. PB-10-F-9435, being driven by Devinder Singh-respondent No.1 in a rash and negligent manner, came from the opposite side and hit Gurcharan

injuries. Gurcharan Singh succumbed to the injuries when he was being taken to the hospital. 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 Gurcharan Singh. This finding was rightly given on the basis of deposition of Jit Singh (PW-8) and Jaswant Singh (PW-13), who were eye witness of the accident. Apart from this, claimants have also proved on record copy of FIR Ex.P71.

In the absence of any documentary evidence, income of the deceased was assessed as Rs.2000/- per month i.e. Rs.24,000/- per annum, out of which, one-third amount was deducted towards his personal expenses. By doing so, the total income of deceased came to Rs.16,000/- per annum. The deceased was 50 years of age at the time of death/accident. Accordingly, multiplier of 11 was applied. After applying the multiplier of 11, dependency of claimants came to Rs.1,76,000/- (16,000 x 11). Hence, the claimants were found entitled to total compensation of Rs.1,76,000/- 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. Parties are not in dispute with respect to the finding given by 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-respondent No.1. 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.2500/- per month
(ii)	10% of (i) above to be added as future prospects	2500 + 250 = Rs.2750/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	2750 – 687 = Rs.2063/-
(iv)	Compensation after multiplier of 13 is applied	Rs.2063/- x 12 x 13 = Rs.3,21,828/-
(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 and father i.e. appellant Nos.2, 3 & 4	Rs.1,20,000/- (Rs.40,000/- each)
(ix)	TOTAL COMPENSATION AWARDED	Rs.5,11,828/-
(x)	Enhanced amount of compensation	Rs.5,11,828 – 1,76,000 = Rs.3,35,828/-

The enhanced amount of compensation of Rs.3,35,828/- shall

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

21.08.2019
ajp

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