

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 2759 of 2008

Date of decision: 09.09.2019

Kitabo Devi and others

...Appellants

V/s.

Rajinder Singh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Arvind Bansal, Advocate for
the appellants.

Mr. D.P. Gupta, Advocate, with
Mr. R.C. Gupta, Advocate and
Mr. B.S. Bajwa, Advocate
for the insurance co.

RITU BAHRI, J. (Oral).

The claimants have come up in appeal against the award of the Tribunal dated 05.12.2007 whereby they have been awarded compensation of Rs.3,15,000/- on account of death of Ram Kumar, who died in a road accident which took place on 26.09.2006.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 26.09.2006 Ram Kumar (since deceased) alongwith his brother Krishan Kumar had started from bus stand, Siwan for Kaithal in Mahindra Pick up van bearing registration No. HR-64-0480 (hereinafter referred to as the 'offending vehicle') which was being driven by respondent Rajinder Singh in a rash and negligent manner. The vehicle was loaded with vegetables and both of them were sitting on the top. They had tried to persuade respondent Rajinder to drive carefully but

to no effect. At about 6:00 a.m. they reached near Siwan Gate, Kaithal. A barrier made of iron is installed at the said gate for preventing the entry of heavy motor vehicles in the city. The smaller vehicle can pass beneath this barrier. However, due to rash and negligent driving of Mohindra pick up van by respondent Rajinder, Ram Kumar who was sitting on the top of the vegetables had struck against the said iron barrier when the pick up van was passing beneath the said barrier. As a result, Ram Kumar had fallen down and received multiple injuries. He was taken to Shah Hospital, Kaithal from where he was referred to PGI, Chandigarh where he died on 01.10.2006. Consequently, the claimants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

The parties are not in dispute with respect to finding on issue No. 1 that the accident took place on account of negligent driving by the driver of the offending vehicle. This finding has been rightly given in favour of the claimants keeping in view the FIR (Ex.P3), certified copy of the post mortem report (Ex.P4), copy of final report under Section 173 Cr.P.C. (Mark A.1), copy of statement of Krishan Lal (Mark A.2) and copy of site plan (Mark A.3) etc.

The deceased was 45 years of age at the time of accident and was vegetable vendor. The Tribunal had assessed monthly income of the deceased as Rs.3,000/- p.m. and assessed the following compensation:-

Sr. No.	HEADS	CALCULATIONS
(i)	Annual Income	3,000X12=Rs.36,000/-
(ii)	1/3 rd deduction for personal expenses	36,000-12,000=Rs.24,000/-
(iii)	Annual loss of dependency after applying multiplier of 13	24,000X13=Rs.3,12,000/-
	TOTAL COMPENSATION AWARDED	Rs. 3,15,000/- (in round figure)

Hence, the claimants were found entitled to total compensation of Rs.3,15,000/- along with interest @ 7.5% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimants-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.

Hence, to meet the ends of justice, the compensation is hereby reassessed keeping in view 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)	Annual Income	3,000X12=Rs.36,000/-
(ii)	1/4 th deduction for personal expenses	36,000-9,000=Rs.27,000/-
(iii)	25% future prospects	27,000+6,750=Rs.33,750/-
(iv)	Applied multiplier of 14	33,750X14=4,72,500/-
(v)	Funeral expenses	Rs.15,000/-
(vi)	Loss of estate	Rs.15,000/-
(vii)	Loss of filial consortium	Rs.2,40,000/- Rs.40,000/- each to all the appellants)
	TOTAL COMPENSATION AWARDED	Rs.7,42,500/-
	ENHANCED AMOUNT OF COMPENSATION	7,42,500-3,15,000=Rs.4,27,500/-

The enhanced amount of compensation of **Rs.4,27,500/-** 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

09.09.2019
Divyanshi

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