

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

**FAO No.3746 of 2008 (O&M)
Date of decision: 18.11.2019**

Smt. Sunita Devi and others

....Appellants

Versus

Sh. Amarjit Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ashwani Arora, Advocate,
for the appellants.

Mr. V.M. Gupta, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'the Tribunal') vide award dated 19.03.2008 on account of death of Partap Singh in a motor vehicular accident which took place on 23.12.2004. Appellants No.1 is widow and appellant Nos. 2 to 4 are children of deceased Partap Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 23.12.2004, at about 11.30 P.M., Partap Singh (since deceased) along with his wife Sunita Devi (claimant No.1) was going from Lalru to Zirakpur. When they reached near Dhillon Factory, a truck bearing registration No. HR-39-2872 being driven

from behind and struck against their scooter, as a result of which, Partap Singh and Sunita Devi received serious injuries. Partap Singh died at the spot and Sunita Devi was shifted to the hospital. With regard to the incident, FIR No.355 dated 23.12.2004, under Sections 304-A/279/338 IPC was registered against respondent No.1 at Police Station, Dera Bassi. 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 Partap Singh. This finding was rightly given on the basis of deposition of Sunita Devi (PW-1), who was eye witnesses of the accident. Further, the claimants have also proved on record copy of FIR Ex.P94 and postmortem report of deceased as Ex.P95.

On the basis of evidence adducted by the claimants, income of the deceased was assessed as Rs.3561/- per month, out of which, one-third amount was deducted towards his personal expenses. By doing so, the total income of deceased came to Rs.2374/- per month, rounded off as Rs.2300/- per month, i.e. Rs.27,600/- per annum. The deceased was 47 years of age at the time of death/accident. Multiplier of 13 was applied. After applying the multiplier of 13, dependency of claimants came to Rs.3,58,800/- (27,600/- x 13). In addition to it, Rs.11,200/- were awarded as funeral expenses. Hence, the claimants were found entitled to total compensation of Rs.3,70,000/- along with interest @ 9% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-

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 regard to the finding given by Tribunal that the accident had taken place on account of rash and negligent driving of the offending vehicle by its driver. As per deposition of Pawan Kumar Gupta, Special Assistant, Punjab National Bank (PW-3), deceased-Partap Singh was getting pension of Rs.4820/- per month. Claimant No.1 is also receiving Rs.5000/- per month as family pension. At that time, the deceased was serving in RBG Security Solution Ltd., Pathankot and was getting salary of Rs.3561/- per month. Keeping in view the judgment passed by this Court in **Oriental Insurance Co. Ltd. vs. Lalanwati and others**, 2012 ACJ 2425, the compensation is required to be reassessed by adding the benefit of family pension into his income. By doing so, total income of deceased comes to Rs.8381/- (4820 + 3561). Accordingly, 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.8381/- per month
(ii)	25% of (i) above to be added as future prospects	8381 + 2095 = Rs.10,476/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	10,476 – 2619 = Rs.7857/-
(iv)	Compensation after multiplier of 13 is applied	Rs.7857/- x 12 x 13 = Rs.12,25,692/-
(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-appellant Nos.2 to 4.	Rs.1,20,000/- (Rs.40,000/- each)
(ix)	TOTAL COMPENSATION AWARDED	Rs.14,15,692/-
(x)	Enhanced amount of compensation	Rs.14,15,692 – 3,70,000= Rs.10,45,692/-

The enhanced amount of compensation of **Rs.10,45,692/-** 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

18.11.2019
ajp