

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

FAO No. 3574 of 2005

Date of decision: 31.10.2019

Poonam @ Pooja and others

...Appellants

V/s.

Shyam Sunder and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Vijay Sangwan, Advocate
for the appellants.

Mr. Ashwani Talwar, Advocate for
respondent No.5-insurance co.

RITU BAHRI, J. (Oral).

The appellants have come up in appeal against the award of the tribunal dated 11.03.2005 whereby they have been awarded compensation of Rs.3,84,000/- on account of death of Sandeep Kumar, who died in a road accident which took place on 14.01.2004.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 14.01.2004 deceased Sandeep Kumar and one Satbir resident of village Notana were returning from village Murlipur to village Satnali in a TATA-407 bearing registration No. RJ18G/1967 alongwith goods. The said TATA-407 was being driven by Shyam Sunder (respondent No.1) in a rash and negligent manner and at a very high speed and without observing the traffic rules. The said TATA-407 was following a truck bearing registration No. RJ-IG/2236. At about 8/9 p.m., when both the vehicles were within the revenue estate of village

Balana, the driver of the truck bearing No.RJ-IG/2236 suddenly applied the brakes. The respondent No. 1 could not control his vehicle due to fast speed and thus TATA-407 dashed into the rear portion of the truck. As a result of this accident, Sandeep Kumar (deceased) sustained injuries on his person and died on the way to the hospital. Consequently, the claimants-appellants 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 FIR No. 8 dated 15.01.2004 under Sections 279/337/304-A IPC (Ex.P2) was registered against respondent No.1 at Police Station Satnali and the report under Section 175 Cr.P.C. (Ex.P3).

The deceased was 25 years of age as per post mortem report (Ex.P1) at the time of accident. The tribunal had assessed monthly income of the deceased as Rs.3,000/- and assessed the following compensation:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.3,000/-p.m.
(ii)	1/3 rd of (i) deducted as personal expenses of the deceased	3,000-1,000=Rs.2,000/-
(iii)	Total annual dependency after multiplier of 16 is applied	2,000X12X16=3,84,000/-
	TOTAL COMPENSATION AWARDED	Rs.3,84,000/-

Hence, the claimants were found entitled to total compensation of Rs.3,84,000/- along with interest @ 9% 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.

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)	Income	Rs.3,000/-p.m.
(ii)	40% future prospects	3,000+1,200=Rs.4,200/-
(iii)	1/4 th of (ii) is deducted as personal expenses of the deceased	4,200-1,050=Rs.3,150/-
(iv)	Compensation after applying multiplier of 18	3,150X12X18=Rs.6,80,400/-
(v)	Funeral expenses	Rs.15,000/-
(vi)	Loss of estate	Rs.15,000/-
(vii)	Loss of <i>filial</i> consortium	Rs.2,00,000/- (Rs.40,000/- each to all the appellants)
	TOTAL COMPENSATION AWARDED	Rs.9,10,400/-
	ENHANCED AMOUNT OF COMPENSATION	9,10,400-3,84,000=Rs.5,26,400/-

The enhanced amount of compensation of **Rs.5,26,400/-** 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 and liability for payment of compensation shall remain unaltered.

Accordingly, the award stands modified to the above extent and the appeal is allowed.

(RITU BAHRI)
JUDGE

31.10.2019
Divyanshi

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