

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

**FAO No.5159 of 2008
Date of decision: 10.09.2019**

Baljeet Singh and others

....Appellants

Versus

Manoj Kumar Bisht and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Rajesh Malik, Advocate,
for the appellants.

Mr. Ashwani Talwar, 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, Sonapat (hereinafter referred to as 'the Tribunal') vide award dated 11.09.2008, on account of death of Mandeep Dahiya in a motor vehicular accident which took place on 21.02.2007. Appellants are father, mother and grandfather of deceased Mandeep Dahiya.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 21.02.2007, Mandeep Dahiya (since deceased) was going on a motorcycle No. RJ-14-5-M-8082 on Ajmer Road. When he reached near old Octroi Post, Jaipur, one Maruti Swift car bearing No.RJ-14-CC-8819 being driven by Manoj Kumar Bisht-respondent No.1 in a rash and negligent manner, came and struck against the motorcycle, as a result of which, Mandeep Dahiya received grievous

succumbed to the injuries. With regard to the accident, FIR No.61 dated 22.02.2007 was registered against respondent No.1 at Police Station, Shyam Nagar, Jaipur. 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 offending vehicle by respondent No.1, as a result of which Mandeep Dahiya has died and thus, returned finding on issue no.1 in favour of the claimants. This finding was rightly given on the basis of the deposition of Ram Kishan (PW-1), who was eye witness of the accident. Further, the claimants have proved on record copy of FIR Ex.P2.

The deceased was employed in Jay Pee Capital Services Limited and Jay Pee Commodities Limited as Relationship Manager. As per salary certificate Mark A, he was getting salary of Rs.12,500/-. The Tribunal has observed that for the purpose of assessing dependency, the city compensatory allowance and the travelling allowance cannot be taken into consideration. Accordingly, income of the deceased was assessed by the Tribunal as Rs.10,500/- per month, out of which, 1/3rd amount was deducted towards his personal expenses. By doing so, remaining income came to Rs.7000/- per month. The deceased was 24 years of age at the time of accident/death. He was unmarried. Multiplier of 10 was applied by the Tribunal keeping in view the age of his parents. After applying the multiplier of 10, dependency of claimants came to Rs.8,40,000/- (7000 x 12 x 10). In addition to it, Rs.10,000/- were awarded on account of funeral expenses and transportation of the dead body. Hence, appellant-claimants

were found entitled to total compensation of Rs.8,50,000/- 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 findings given by the Tribunal on issue No.1 that the accident had taken place on account of rash and negligent driving of the offending vehicle by respondent No.1.

The deceased was 24 years of age. However, multiplier of 10 has been applied by the Tribunal while calculating the compensation. In this case, multiplier of 18 should have been applied. Hence, 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 Co. Ltd. vs. Nanu Ram alias Chuhru Ram & Ors.**, 2018 (4) RCR (Civil) 333, as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.10,500/- per month
(ii)	40% of (i) above to be added as future prospects	10,500 + 4200 = Rs.14,700/-

(iii)	50% of (ii) above is deducted as personal expenses of the deceased	14,700 – 7350 = Rs.7350/-
(iv)	Compensation after multiplier of 18 is applied	Rs.7350/- x 12 x 18 = Rs.15,87,600/-
(v)	Compensation on account of loss of estate	Rs.15,000/-
(vi)	Funeral expenses	Rs.15,000/-
(vii)	Loss of filial consortium to the appellants (claimant Nos.1 to 3)	Rs.1,20,000/- (Rs.40,000/- each)
(viii)	TOTAL COMPENSATION AWARDED	Rs.17,37,600/-
(ix)	Enhanced amount of compensation	Rs.17,37,600 – 8,50,000 = Rs.8,87,600/-

The enhanced amount of compensation of **Rs.8,87,600/-** 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 keeping in view the judgment passed by Hon'ble the Supreme Court in **Dara Singh @ Dhara Banjara vs. Shyam Singh Verma & 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

10.09.2019
ajp

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