

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

**CM-1057-CII-2013  
CM-17332-CII-2016 in/and  
FAO No.1916 of 2010  
Date of decision: 25.11.2019**

Smt. Bimla Devi and others

Versus

....Appellants

Manohar Singh and others

....Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**

Present: Mr. N.C. Kinkra, Advocate,  
for the appellants.

Mr. Gopal Mittal, Advocate,  
for respondent No.3-Insurance Company.

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**RITU BAHRI J. (Oral)**

**CM-17332-CII-2016**

Documents (Annexures A-1 to A-5) are taken on record.

Misc. application stands allowed accordingly.

**CM-1057-CII-2013**

For the reasons mentioned in the application, same is allowed and the main appeal i.e. FAO No.1916 of 2010 is taken up today itself for its disposal.

**FAO No.1916 of 2010**

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal (Adhoc) Fast Track Court, Rewari (hereinafter referred to as 'the Tribunal') vide award dated 30.09.2009 on account of death of Jai Ganesh in a motor vehicular accident which took place on 04.03.2005. Appellant No. 1 is widow, appellant Nos.2 & 3 and respondent No.4 are children of deceased-

Jai Ganesh.

**FACTS NOT IN DISPUTE**

Brief facts of the case are that on 04.03.2005, at about 8.30 A.M., Jai Ganesh (since deceased) was going towards his shop on a motorcycle No. HR-36-F-2102 from his house. When he reached at Pargati Chowk, Rewari, a truck No.GJ-18-U-6100 being driven by respondent No.1 in a rash and negligent manner, came and hit the motorcycle of Jai Ganesh and run over his head. As a result of which accident, Jai Ganesh died at the spot. With regard to the incident, FIR No.44 dated 04.03.2005, under Sections 279/304-A IPC was registered against respondent No.1 on the statement of Ravi Kumar son of Wazir Chand. 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 Jai Ganesh. This finding was rightly given on the basis of deposition of Ravi Kumar (PW-1), who was eye witnesses of the accident and on whose statement, FIR was registered. Apart from this, claimants have also proved on record copy postmortem report of deceased as Ex.P1.

In the absence of any documentary evidence, income of the deceased was assessed as Rs.10,000/- per month, out of which, one-third (1/3<sup>rd</sup>) amount was deducted towards his personal expenses. By doing so, the total income of deceased came to Rs.6700/- per month i.e. Rs.80,400/- per annum. As per postmortem report, deceased was 50 years of age at the time of death/accident. Multiplier of 11 was applied by the tribunal. After

applying the multiplier of 11, dependency of claimants came to Rs.8,84,400/- (80,400/- x 11). In addition to it, Rs.15,600/- were awarded on account of consortium and misc. expenses. Hence, the claimants were found entitled to total compensation of Rs.9,00,000/-, 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. There is no dispute with regard to finding given by Tribunal on issue No.1 that the accident had taken place on account of rash and negligent driving of offending vehicle by its driver. 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.10,000/- per month       |
| (ii)    | 10% of (i) above to be added as future prospects | 10,000 + 1000 = Rs.11,000/- |

|        |                                                                                         |                                                |
|--------|-----------------------------------------------------------------------------------------|------------------------------------------------|
| (iii)  | 1/3 <sup>rd</sup> of (ii) above is deducted as personal expenses of the deceased        | 11,000 – 3666 = Rs.7334/-                      |
| (iv)   | Compensation after multiplier of 13 is applied                                          | Rs.7334/- x 12 x 13 = Rs.11,44,104/-           |
| (v)    | Loss of estate                                                                          | Rs.15,000/-                                    |
| (vi)   | Funeral expenses                                                                        | Rs.15,000/-                                    |
| (vii)  | Loss of consortium to the widow i.e. appellant No.1.                                    | Rs.40,000/-                                    |
| (viii) | Loss of filial consortium to the children i.e. appellant Nos.2 & 3 and respondent No.4. | Rs.1,20,000/- (Rs.40,000/- each)               |
| (ix)   | <b>TOTAL COMPENSATION AWARDED</b>                                                       | <b>Rs.13,34,104/-</b>                          |
| (x)    | <b>Enhanced amount of compensation</b>                                                  | <b>Rs.13,34,104 – 9,00,000 = Rs.4,34,104/-</b> |

The enhanced amount of compensation of **Rs.4,34,104/-** 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). It is being clarified that initially, respondent No.3- National Insurance Company being insurer of the offending vehicle will indemnify/pay the amount of compensation to the claimants and thereafter, it shall recover the same from driver/owner of the said vehicle. 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**

25.11.2019

ajp