

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

**FAO No.2696 of 2010
Date of decision: 17.07.2019**

Bhawna Goswami and others

....Appellants

Versus

Suchma Begum and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Sunil Chadha, Senior Advocate,
with Mr. Rahul Bhargava, Advocate,
for the appellants.

Mr. Pradeep Goyal, 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, Chandigarh (hereinafter referred to as 'the Tribunal') vide award dated 15.02.2010, on account of death of Mohinder Goswami in a motor vehicular accident which took place on 05.12.2005. Appellant No.1 is widow and appellant Nos. 2 & 3 are children of deceased-Mohinder Goswami.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 05.12.2005, Mohinder Goswami (since deceased), who was working as Manager (Finance) with M/s Fore Solutions Pvt. Ltd., was standing on his motorcycle bearing registration No. CH-03-U-2410 near light point at Dhillon Turn, Manimajra, U.T., Chandigarh, on account of red light signal. In the meantime, a truck bearing registration No. HP-12-2972 being driven by respondent No.2-

Chaman Lal in a rash and negligent manner, came from the side of Kalka

and struck against the motorcycle from behind, as a result of which, Mohinder Goswami was crushed under the wheels of the offending truck. He was taken to General Hospital, Sector 16, Chandigarh, from where he was referred to CMC Hospital, Chandigarh on 08.12.2005. Later on, he was shifted to Fortis Hospital on 12.12.2005, but unfortunately, he succumbed to the injuries on 15.12.2005. With regard to the accident, FIR No.406 dated 05.12.2006 was registered against respondent No.2. 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.2, as a result of which Mohinder Goswami 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 Balwant Singh (PW-1), who was an eye witness of the accident. Further, the claimants have proved on record copy of FIR Ex.C-1 and postmortem report of Mohinder Goswami along with MLC as Ex.P12 and Ex.P13.

Deceased-Mohinder Goswami was employed as a Manager in M/s Fore Solutions Private Limited. As per copy of salary certificate Ex.P-7, he was drawing a salary of Rs.12,650/- per month. The Tribunal has taken monthly salary of deceased as Rs.12,000/- per month i.e. Rs.1,44,000/- per annum. Out of this income, 1/3rd amount was deducted towards personal expenses of the deceased. By doing so, remaining income came to Rs.96,000/- per annum. Deceased was 37 years of age at the time of accident/death. Accordingly, multiplier of 15 was applied by the Tribunal.

After applying the multiplier of 15, dependency of claimant Nos.1 to 3 (widow and minor children) came to Rs.14,40,000/- (96,000 x 15). In addition to it, Rs.5,000/- were awarded to claimant No.1-widow on account of loss of consortium, Rs.8000/- as funeral expenses and Rs.1,27,000/- as medical expenses. Hence, appellant-claimants were found entitled to total compensation of Rs.15,80,000/- along with interest @ 6% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-appellant has 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.2. As per salary certificate Ex.P-7, deceased was drawing a salary of Rs.12,650/- per month. Accordingly, this Court proceed to take salary of the deceased as Rs.12,700/- per month. 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.12,700/- per month
(ii)	40% of (i) above to be added as future prospects	12,700 + 5080 = Rs.17,780/-
(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	17,780 – 5926 = Rs.11,854/-
(iv)	Compensation after multiplier of 15 is applied	Rs.11,854/- x 12 x 15 = Rs.21,33,720/-
(v)	Loss of consortium to widow-claimant No.1	Rs.40,000/-
(vi)	Loss of estate	Rs.15,000/-
(vii)	Loss of filial consortium to children i.e. claimant-appellant Nos. 2 & 3	Rs.80,000/- (Rs.40,000/- each)
(viii)	Funeral expenses	Rs.15,000/-
(ix)	Medical treatment/expenses	Rs.1,27,000/-
(x)	TOTAL COMPENSATION AWARDED	Rs.24,10,720/-
(xi)	Enhanced amount of compensation	Rs.24,10,720 – 15,80,000 = Rs.8,30,720/-

The enhanced amount of compensation of **Rs.8,30,720/-** 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

17.07.2019

ajp