

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

**FAO No.210 of 2011 (O&M)  
Date of decision: 18.11.2019**

Smt. Bhajan Kaur and others

....Appellants

Versus

Karnail Singh and others

....Respondents

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

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

Mr. Sandeep Saini, Advocate,  
for respondent No.3-Insurance Company.

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**RITU BAHRI J. (Oral)**

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, S.A.S. Nagar, Mohali (hereinafter referred to as 'the Tribunal') vide award dated 15.04.2010 on account of death of Pal Singh @ Jaspal Singh in a motor vehicular accident which took place on 02.05.2009. Appellants No.1 is widow and appellant Nos. 2 & 3 are children of deceased Pal Singh @ Jaspal Singh.

**FACTS NOT IN DISPUTE**

Brief facts of the case are that on 02.05.2009, at about 1.00 P.M., Pal Singh @ Jaspal Singh (since deceased) was going from Lalru to his village on a motorcycle. His son Baljinder Singh was the pillion rider.

registration No. PB-70-B-5784 being driven by Karnail Singh-respondent No.1 in a rash and negligent manner, came from the side of Ambala and struck against the motorcycle of Pal Singh @ Jaspal Singh. The said tractor dragged the motorcycle and thereafter, it struck against one Parvinder Singh son of Swaran Singh, who was standing on the left side of the road. As a result of this accident, Pal Singh @ Jaspal Singh and his son fell down on the road and received serious injuries. They were taken to Civil Hospital, Dera Bassi, from where, Pal Singh @ Jaspal Singh was referred to GMCH, Sector 32, Chandigarh, where he died on 03.05.2009. With regard to the incident, FIR No.53 dated 03.05.2009, under Sections 279/337/427/304-A IPC was registered against respondent No.1 at Police Station Lalru. 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 Pal Singh @ Jaspal Singh. This finding was rightly given on the basis of deposition of Bhajan Kaur (PW-1) and Surinder Singh (PW-2), who was eye witnesses of the accident. Further, the claimants have also proved on record copy of postmortem report of deceased Ex.P1, FIR Ex.P3, copy of report under Section 173 Cr.P.C. As Ex.P4.

In the absence of any documentary proof, income of the deceased was assessed as Rs.4500/- 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.3,000/- per month i.e. Rs.36,000/- per

annum. The deceased was 46 years of age at the time of death/accident. However, multiplier of 13 was applied. After applying the multiplier of 13, dependency of claimants came to Rs.4,68,000/- (36,000/- x 13). Hence, the claimants were found entitled to total compensation of Rs.4,68,000/- along with interest @ 8% 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. 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.4500/- per month     |
| (ii)    | 25% of (i) above to be added as future prospects                                 | 4500 + 1125 = Rs.5625/- |
| (iii)   | 1/3 <sup>rd</sup> of (ii) above is deducted as personal expenses of the deceased | 5625 – 1875 = Rs.3750/- |

|        |                                                                  |                                                  |
|--------|------------------------------------------------------------------|--------------------------------------------------|
| (iv)   | Compensation after multiplier of 13 is applied                   | Rs.3750/- x 12 x 13 =<br>Rs.5,85,000/-           |
| (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 and 3. | Rs.80,000/- (Rs.40,000/- each)                   |
| (ix)   | <b>TOTAL COMPENSATION AWARDED</b>                                | <b>Rs.7,35,000/-</b>                             |
| (x)    | <b>Enhanced amount of compensation</b>                           | <b>Rs.7,35,000 – 4,68,000=<br/>Rs.2,67,000/-</b> |

The enhanced amount of compensation of **Rs.2,67,000/-** 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

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