

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

**FAO No.3529 of 2011 (O&M)
Date of decision: 18.11.2019**

Smt. Gurjeet Kaur and another

....Appellants

Versus

Sohan Singh and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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

Mr. Ravinder Arora, Advocate,
for respondent No.2-HRTC.

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 07.12.2010 on account of death of Jasdeep Singh Nahan in a motor vehicular accident which took place on 03.06.2009. Appellants are parents of deceased Jasdeep Singh Nahan.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 03.06.2009, at about 4.30 P.M., Jasdeep Singh (since deceased) and his friend Navtej Singh were going on Chandigarh-Doraha road on a motorcycle, which was being driven by Jasdeep Singh. They were being followed by one Dharampal in a car.

registration No. HP-65-7510 (belonging to HRTC), being driven by respondent No.1-Sohan Singh in a rash and negligent manner, came from the opposite side and struck against the motorcycle, as a result of which, Jasdeep Singh and Navtej Singh fell on the ground and received injuries. They were shifted to Civil Hospital, Kharar, from where, Jasdeep Singh was shifted to Fortis Hospital, Mohali. However, he succumbed to the injuries on that very day. With regard to the incident, FIR No.212 dated 03.06.2009, under Sections 279/337/304-A IPC was registered at Police Station, Kharar against respondent No.1. 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 Jasdeep Singh. This finding was rightly given on the basis of deposition of Dharampal (PW-2), who was eye witnesses of the accident and on whose statement, FIR Ex.P16 was recorded. Apart from this, claimants have also proved on record copy of postmortem report of deceased as Ex.P1.

The deceased had completed his B.Tech in Electrical Engineering. On the basis of evidence adduced by the claimants, income of the deceased was assessed as Rs.15,000/- per month, out of which, one-half (50%) amount was deducted towards his personal expenses as he was a bachelor. By doing so, the total income of deceased came to Rs.7500/- per month i.e. Rs.90,000/- per annum. The deceased was 24 years of age at the time of death/accident. However, multiplier of 10 was applied keeping in

view the age of his parents. After applying the multiplier of 10, dependency of claimants came to Rs.9,00,000/- (90,000/- x 10). In addition to it, Rs.5,000/- were awarded on account of funeral expenses. Hence, the claimants were found entitled to total compensation of Rs.9,05,000/- along with interest @ 6% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-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.15,000/- per month
(ii)	40% of (i) above to be added as future prospects	15,000 + 6000= Rs.21,000/-

(iii)	50% of (ii) above is deducted as personal expenses of the deceased	21,000 – 10,500 = Rs.10,500/-
(iv)	Compensation after multiplier of 18 is applied	Rs.10,500/- x 12 x 18 = Rs.22,68,000-
(v)	Loss of estate	Rs.15,000/-
(vi)	Funeral expenses	Rs.15,000/-
(vii)	Loss of filial consortium to the parents i.e. appellants.	Rs.80,000/- (Rs.40,000/- each)
(viii)	TOTAL COMPENSATION AWARDED	Rs.23,78,000/-
(ix)	Enhanced amount of compensation	Rs.23,78,000 – 9,05,000= Rs.14,73,000/-

The enhanced amount of compensation of **Rs.14,73,000/-** 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