

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

**FAO No.4694 of 2011 (O&M)  
Date of decision: 10.07.2019**

Smt. Varsha and others

....Appellants

Versus

Sukhpal Singh and others

....Respondents

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

Present: Mr. C.B. Goel, Advocate,  
for the appellants.

Mr. R.M. Suri, 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 (Adhoc), FTC, Sonipat (hereinafter referred to as 'the Tribunal') vide award dated 31.03.2011 on account of death of Lalit Goel in a motor vehicular accident which took place on 13.02.2009. Appellants are widow, children and parents of deceased Lalit Goel.

**FACTS NOT IN DISPUTE**

Brief facts of the case are that on 13.02.2009, at about 2.30 P.M., Lalit Goel (since deceased) along with Ram Kishan and Madan Lal was coming back towards Gohana after attending the marriage of his friend, in a car bearing temporary No. HT-99-TP-4016. The said vehicle was being driven by Lalit Goel on the extreme left side of the road. When they

reached near village Sainipura towards Gohana, one loaded Trolly bearing No. HR-46-B-9012, being driven by Sukhpal Singh-respondent No.1 in a rash and negligent manner, came from the side of Gohana and struck against the car, as a result of which, Lalit Goel suffered injuries on various parts of his body. Lalit Goel was shifted to PGIMS, Rohtak, where the doctor declared him dead. With regard to the incident, FIR No.63 dated 13.02.2009, under Sections 279/304-A IPC was registered against respondent No.1 at Police Station, Gohana. 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 Lalit Goel. This finding was rightly given on the basis of deposition of Ram Kishan (PW-2), who was eye witnesses of the accident and on whose statement, FIR Ex.P1 was registered. Apart from this, claimants have also proved on record copy of postmortem report of deceased Ex.P2 and charge sheet Ex.PX.

On the basis of evidence adduced by the parties, income of deceased was assessed by the Tribunal as Rs.10,000/- per month i.e. Rs.1,20,000/- per annum, out of which, one-third ( $1/3^{\text{rd}}$ ) amount was deducted towards his personal expenses. By doing so, the total income of deceased came to Rs.80,000/- per annum. The deceased was 26 years of age at the time of death/accident. Accordingly, multiplier of 17 was applied. After applying the multiplier of 17, dependency of claimants came to Rs.13,60,000/- ( $80,000/- \times 17$ ). In addition to this, Rs.15,000/- were

awarded on account of last rites and loss of consortium. Hence, the claimants were found entitled to total compensation of Rs.13,75,000/- 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.

Learned counsel for claimant-appellants has referred to the income tax return of the deceased for the year 2008-09 Ex.PW4/A, which has been proved on record by Shri Manoj Malhotra, from the Office of Income Tax Assistant, Sonipat (PW-4). A perusal of this document shows that in the year 2008-09, total income of the deceased was Rs.4,69,482/-. After deducting Rs.1,00,000/- under Chapter 6-A of the Income Tax Act, remaining income came to Rs.3,69,482/- per annum. Further, documents Ex.PW3/E shows that, deceased being partner of M/s New Rajdhani Roadlines, had received a sum of Rs.84,000/- in the year 2007-08. He was having a truck No. HR-46-A-8546 and his income from this truck, during the year 2008-09, was Rs.42,000/- After making deductions, total tax payable was Rs.92,807/-. Learned counsel has argued that income of the deceased assessed by the Tribunal is on the lower side.

### **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 that the accident had taken place on account of rash and negligent driving of the offending vehicle by its driver. Claimants had led evidence to show that deceased Lalit Goel, was a partner of M/s New

Rajdhani Roadlines. Apart from this, he was also having a truck No. HR-46-A-8546. Keeping in view the aforesaid documents, his income has to be taken as Rs.15,000/- 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 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)   | 1/3 <sup>rd</sup> of (ii) above is deducted as personal expenses of the deceased | 21,000 – 7000 = Rs.14,000/-                      |
| (iv)    | Compensation after multiplier of 17 is applied                                   | Rs.14,000/- x 12 x 17 = Rs.28,56,000/-           |
| (v)     | Loss of estate                                                                   | Rs.15,000/-                                      |
| (vi)    | Funeral expenses                                                                 | Rs.15,000/-                                      |
| (vii)   | Loss of consortium to the widow-appellant No.1                                   | Rs.40,000/-                                      |
| (viii)  | Loss of filial consortium to the children-claimant Nos.2 & 3).                   | Rs.80,000/- (Rs.40,000/- each)                   |
| (ix)    | Loss of filial consortium to the parents-claimant Nos.4 & 5).                    | Rs.80,000/- (Rs.40,000/- each)                   |
| (x)     | <b>TOTAL COMPENSATION AWARDED</b>                                                | <b>Rs.30,86,000/-</b>                            |
| (xi)    | <b>Enhanced amount of compensation</b>                                           | <b>Rs.30,86,000 – 13,75,000 = Rs.17,11,000/-</b> |

The enhanced amount of compensation of **Rs.17,11,000/-** 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**

10.07.2019  
ajp

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