

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-4848-2011(O&M)

Date of decision: 26.08.2019

Beero Devi and another

...Appellants

V/s.

Punjab Singh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Upender Prasher, Advocate for the appellants.

Mr. Aseem Aggarwal, Advocate for
respondent No. 3-insurance co.

RITU BAHRI, J. (Oral).

CM-27919-CII-2014

After hearing learned counsel for the parties, order dated 17.04.2012 is being recalled. However, it is made clear that from 17.04.2012 till 26.08.2019, the claimants will not be entitled for interest.

FAO-4848-2011

The claimants have come up in appeal against the award of the Tribunal dated 01.11.2010 whereby they have been awarded compensation of Rs.2,30,000/- on account of death of Mohan Lal, who was the son of the claimants and died in a road accident which took place on 16.12.2009.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 16.12.2009 Mohan Lal accompanied by Parvesh Kumar had left for Kaithal from village Sangan by motorcycle No. HR-04C-0134. A truck bearing Registration No. HR-38F-4508 being driven by respondent No. 1 in a rash and negligent manner and at a very high speed came from the side of Jind and struck against the

motorcycle from behind. As a result thereof, both the motorcycle riders fell down on the road. Head of Mohan Lal was crushed under the wheels of the truck and he died there on the spot. Consequently, the claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

The parties are not in dispute with respect to finding on issue No. 1 that the accident took place on account of negligent driving by respondent No. 1, the driver of the offending vehicle. This finding has been rightly given in favour of the claimants keeping in view the testimony of PW2 Parvesh Kumar, FIR (Ex. P8) and respondent No. 1 was charged under Sections 279 and 304-A IPC. Ex.P7 is the copy of post mortem report which shows that Mohan Lal died on account of the injuries sustained by him in a road accident.

The deceased was 22 years of age at the time of accident and the Tribunal had awarded lumpsum compensation of Rs.2,30,000/- along with interest @ 7.5% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimants-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. Finding of negligence has rightly been given by the Tribunal and it does not require any interference on that account. The compensation is required to be re-assessed by applying multiplier method. The date of accident is 16.12.2009

and he was stated to be mason and in the year 2009 the minimum wages of semi skilled labourer in Haryana was Rs.3,970/- rounded upto Rs.4,000/- p.m. 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 *Magma General Insurance Company Ltd. V/s. Nanu Ram Alias Chuhru Ram and others*, Civil Appeal No. 9581 of 2018 and *National Insurance Company Limited Vs. Pranay Sethi and others*, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017) as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Annual Income	Rs.4,000X12=Rs.48,000/- p.a.
(ii)	40% of (i) above to be added as future prospects	48,000+19,200=Rs.67,200/-
(iii)	1/2 of (ii) above is deducted as personal expenses of the deceased	67,200-33,600=Rs.33,600/-
(iv)	Compensation after multiplier of 18 applied	33,600X18=Rs.6,04,800/-
(v)	Funeral expenses	Rs.15,000/-
(vi)	Loss of estate	Rs.15,000/-
(vii)	Loss of Filial Consortium	Rs.80,000/- (Rs.40,000/- each to appellants No. 1 and 2)
(vii)	TOTAL COMPENSATION AWARDED	Rs. 7,14,800/-
(ix)	ENHANCED AMOUNT OF COMPENSATION	Rs.7,14,800-2,30,000 = Rs.4,84,800/-

The enhanced amount of compensation of **Rs.4,84,800/-** 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 V/s. Shyam Singh Varma and others*, Civil Appeal No. 4528 of 2019 and the claimants are not entitled for any interest from 17.04.2012 till 26.08.2019. Remaining conditions of disbursal of amount shall remain unaltered.

Accordingly, the award stands modified to the above extent and the present appeal is allowed.

(RITU BAHRI)
JUDGE

26.08.2019
Divyanshi

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