

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 867 of 2010(O&M)
Date of decision: 28.11.2019

Anguri Devi and another

...Appellants

V/s.

Harbans and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Munfaid Khan, Advocate for
Mr. Amit Kumar Jain, Advocate
for the appellants.

Ms. Shamsher Kaur, Advocate for
respondent No.3.

RITU BAHRI, J. (Oral).

The claimants have come up in appeal against the award of the Tribunal dated 06.02.2009 whereby they have been awarded compensation of Rs.2,25,000/- on account of death of their daughter Sumita @ Samita who died in a road accident which took place on 23.04.2008.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 23.04.2008 deceased Sumita @ Samita alongwith her brother Surjit was going to her school situated at village Bishanpura on bicycle riding by her uncle Satish. After reaching bus stand, Bishanpura, the deceased Sumita @ Samita was crossing the road on foot to go to her school and in the meantime, one Innova Car bearing registration No.DL-3-CAM-0795 (hereinafter referred to as the offending vehicle) being driven by respondent No. 1 Harbans rashly and negligently and without blowing any horn came from Rohtak side and hit Sumita @ Samita. Consequently she fell down and expired on the spot. The accident

took place due to rash and negligent driving of respondent No.1. 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 that FIR No. 115 dated 23.04.2008 under Sections 279 and 304-A IPC (Ex.P2) was registered against respondent No.1 on the statement of Satish Kumar, seizure memo and report under Section 173 Cr.P.C.

The deceased was 11 years of age as per postmortem report (Ex.P1). The Tribunal had assessed her notional income as Rs.15,000/- per annum and assessed the following compensation:-

Sr. No.	HEADS	CALCULATIONS
(i)	Annual Income	Rs.15,000/-
(ii)	Compensation after multiplier of 15 applied	15,000X15=Rs.2,25,000/-
	TOTAL COMPENSATION AWARDED	Rs. 2,25,000/-

The Tribunal had given compensation of Rs.2,25,000/- 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 deceased was 11 years of age. The accident in the present case has taken place in the year 2008. This Court had taken the notional income of the child as Rs.50,000/- per annum in *FAO No. 33256 of 2016 Hakam Singh and another V/s. Dimple and others* keeping in view the judgment passed by Supreme Court in *Kishan Gopal and another Vs. Lala and others, 2013 (4) RCR (Civil) 276*, wherein notional income of a 10 year old child, was taken as Rs.30,000/- p.a. and accident in this case took place in the year 1992. Further reference can be made to a judgment passed in *FAO-159-2015 titled Beet Nath and another V/s. Gulab Singh and others*, wherein the notional income of the deceased, who was 15 year old, had been taken as Rs.50,000/- and the accident took place in the year 2012. Hence, to meet the ends of justice, the compensation is hereby reassessed taking the notional income of the deceased as Rs.40,000/- p.a. keeping in view the above referred judgments and 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.40,000/-
(ii)	Compensation after multiplier of 15 applied	40,000X15=Rs.6,00,000/-
(iii)	Funeral expenses	Rs.15,000/-
(iv)	Loss of estate	Rs.15,000/-
(v)	Loss of Filial Consortium	Rs.80,000/- (Rs.40,000/- each to both the appellants)
(vii)	TOTAL COMPENSATION AWARDED	Rs. 7,10,000/-
(ix)	ENHANCED AMOUNT OF COMPENSATION	Rs.7,10,000/-Rs.2,25,000/-=Rs.4,85,000/-

The enhanced amount of compensation of **Rs.4,85,000/-** 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 V/s. Shyam Singh Varma and others***, Civil Appeal No. 4528 of 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.

Pending application, if any, also stands disposed of.

(RITU BAHRI)
JUDGE

28.11.2019

Divyanshi

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