

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-2389-2012
Date of decision: 15.07.2019

Bhabya and others

...Appellants

V/s.

Shri Deepak Chaudhary and another

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Ms. Naveena Sharma, Advocate for
Ms. Ekta Thakur, Advocate for the appellants.

Service of respondent No. 1 dispensed with
vide order dated 15.09.2014.

Mr. V. Ramswaroop, Advocate for
respondent No. 2-insurance co.

RITU BAHRI, J. (Oral).

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accidents Claim Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal') vide award dated 27.01.2012 on account of death of Rachna Bhalla in a motor vehicular accident which took place on 11.05.2010. Appellant No. 1 is the daughter of the deceased whereas appellants No. 2 and 3 are the parents of the deceased.

FACTS NOT IN DISPUTE

Brief facts of the case are that Rachna Bhalla had died in a road accident which took place on 11.05.2010. She was going on Hero Honda motor cycle bearing registration No. HR-07-K-8789 as pillion rider

driven by Deepak Chaudhary (respondent No. 1) from their home towards Rose Garden and unfortunately her 'dupatta' entangled in the tyre of the aforesaid motor cycle. As a result of which, she fell on the road and her head struck against the concrete edge of the road and died at the spot.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the finding had been rightly answered in favour of the claimants that accident took place due to the use of the offending motor cycle and DDR No. 50 dated 11.05.2010 (Ex. P7) was registered. This finding was rightly given on the basis of deposition of Lakhbir Loby (PW-2), who was eye witness of the accident.

The deceased was 38 years of age. The Tribunal had taken her notional income as Rs.3,200/- per month and assessed the compensation as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	3200 X 12= 38,400/- p.a.
(ii)	1/3rd of (i) above is deducted as personal expenses of the deceased	38400-12800= 25600
(iii)	Compensation after multiplier of 15 applied	25600X15=384000
(iv)	Funeral expenses	5000
(v)	Loss of estate	10,000
(vi)	TOTAL COMPENSATION AWARDED	Rs. 3,99,000/-

Hence, the claimants were found entitled to total compensation of Rs.3,99,000/- 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. Finding of negligence has rightly been given by the Tribunal and it does not require any interference on that account. In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed keeping in view the minimum wages prevalent in State of Punjab in the year 2010, and the fact that the deceased had a minor daughter and her husband is not claimant in the claim petition, the income of the deceased can be taken as Rs.6,000/- p.m. as a highly skilled labourer, and 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)	Income	Rs.6,000 X12=Rs.72,000 p.a.
(ii)	40% of (i) above to be added as future prospects	72,000+28,800=1,00,800
(iii)	1/3 rd (ii) above is deducted as personal expenses of the deceased	1,00,800-33,600=67,200
(iv)	Compensation after multiplier of 15 applied	67,200X15=10,08,000/-
(v)	Funeral expenses	Rs.15,000/-
(vi)	Love and affection to a child	Rs.40,000/-
(vii)	Loss of Filial Consortium	Rs.80,000/- (Rs.40,000/- each to appellants No. 2 and 3)
(vii)	TOTAL COMPENSATION AWARDED	Rs. 11,43,000/-
(ix)	ENHANCED AMOUNT OF COMPENSATION	Rs.11,43,000-Rs.3,99,000 = Rs. 7,44,000/-

The enhanced amount of compensation of **Rs.7,44,000/-** 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.

(RITU BAHRI)
JUDGE

15.07.2019
Divyanshi

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