

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 6503 of 2011

Date of decision: 23.10.2019

Rekha Dhiman and others

...Appellants

V/s.

Kuldeep Singh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Sham Lal Bhalla, Advocate
for the appellants.

Mr. Rajbir Singh, Advocate for
respondent No.3-insurance co.

RITU BAHRI, J. (Oral).

The appellants have come up in appeal against the award of the tribunal dated 10.06.2011 whereby they have been awarded compensation of Rs.13,02,000/- on account of death of Pankaj Kumar, who died in a road accident which took place on 20.04.2009.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 20.04.2009 Pankaj Kumar (deceased) was returning to Patiala in Accent Car No. PB-23E-0086 after doing his work at Gobindgarh and Anil Kumar was following him in Santro Car No. PB-48B-0072. At about 10.30 p.m. when Pankaj Kumar reached near Grewal Kothi in limits of village Chaurwala, then Canter No. PB-23-F-0895 (hereinafter referred to as offending vehicle) being driven by respondent Kuldeep Singh came from the opposite side being driven in rash and negligent manner and on high speed. The driver did not blow any horn

and struck the canter against the car driven by Pankaj Kumar. As a result of this accident, Pankaj Kumar received multiple injuries and died at 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 the driver of the offending vehicle. This finding has been rightly given in favour of the claimants keeping in view FIR No. 37 dated 21.04.2009 under Sections 279/304-A/427 IPC was registered against respondent No.1 at Police Station Mullepur (Ex.A-1) and post mortem report (Ex.A-2).

The deceased was 33 years of age at the time of accident. The tribunal had observed that as per Ex.R-1, the gross total income of the deceased was Rs.1,52,940/- and tax paid was to the sum of Rs.4,726/- and thereby the tribunal assessed annual income as Rs.1,48,220/- after deducting Rs.4,726/- and assessed the following compensation:-

Sr. No.	HEADS	CALCULATIONS
(i)	Annual Income	Rs.1,48,220/-
(ii)	1/3 rd of (i) deducted as personal expenses of the deceased	1,48,220-49,407=Rs.98,813 rounded upto Rs.99,000/-
(iii)	Compensation after multiplier of 13 is applied	99,000X13=Rs.12,87,000/-
(iv)	Loss of estate	Rs.5,000/-
(v)	Funeral expenses	Rs.5,000/-
(vi)	Loss of consortium	Rs.5,000/-
	TOTAL COMPENSATION AWARDED	Rs.13,02,000/-

Hence, the claimants were found entitled to total compensation of Rs.13,02,000/- 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.

To meet the ends of justice, the compensation is hereby reassessed keeping in view 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.1,48,220/-
(ii)	40% future prospects	1,48,220+59,228=Rs.2,07,508/-
(iii)	1/4 th of (ii) deducted as personal expenses of the deceased	2,07,508-51,877=Rs.1,55,631/-
(iv)	Compensation after multiplier of 16 is applied	1,55,631X16=Rs.24,90,096/-
(v)	Funeral expenses	Rs.15,000/-
(vi)	Loss of estate	Rs.15,000/-
(vii)	Loss of <i>filial</i> consortium	Rs.2,00,000/- (Rs.40,000/- each to all the appellants)
	TOTAL COMPENSATION AWARDED	Rs.27,20,096/-
	ENHANCED AMOUNT OF COMPENSATION	27,20,096-13,02,000=Rs.14,18,096/-

The enhanced amount of compensation of **Rs.14,18,096/-** 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 appeal is allowed.

(RITU BAHRI)
JUDGE

23.10.2019
Divyanshi

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