

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 4177 of 2012
Date of decision: 26.08.2019

Sanjeev Kumar Aggarwal and another ...Appellants

V/s.

New Gobind Public Welfare Society and others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Vivek Salathia, Advocate for the appellants.

Ms. Vandanaa Malhotra, Advocate for respondent No. 3.

RITU BAHRI, J. (Oral).

The claimants have come up in appeal against the award of the Tribunal dated 10.01.2012 whereby they have been awarded compensation of Rs.2,09,388/- on account of death of Ishan Kumar Aggarwal, who was the son of the claimants and died in a road accident which took place on 11.11.2009.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 11.11.2009, Ishan Kumar Aggarwal and her elder sister Srishti were coming from their residence to their school on Honda Activa scooter No. PB-02-AX-1822, which was being driven by Srishti very slowly on left hand side of the road. When they reached at Batala road, all of a sudden a Mahindra mini bus No. PB-02-AQ-9874 driven by respondent No. 2 Ram Singh rashly and negligently at a very high speed without observing traffic rules, came from opposite side i.e. Amritsar side and struck against Honda Activa scooter, on which Ishan Kumar Aggarwal was pillion rider. As a result thereof, both got crushed

under the bus. Ishan Kumar Aggarwal was taken to Apex Hospital, Amritsar where he died on 13.11.2009. 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. 2, the driver of the offending vehicle. This finding has been rightly given in favour of the claimants keeping in view that FIR No. 489 dated 11.11.2009 under Sections 279, 337, 338 and 427 IPC was registered immediately after the accident and the deposition of Ajay Gupta PW2 that the accident had taken place due to rash and negligent driving of respondent No. 2.

The deceased was 14 years of age at the time of accident. The Tribunal had assessed his notional income as Rs.15,000/- per annum. The Tribunal had assessed compensation as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Annual Income	Rs.15,000/-
(ii)	1/3 rd deduction for personal expenses	15,000-5,000=Rs.10,000/-
(iii)	Multiplier of 15 is applied	10,000X15=Rs.1,50,000/-
(iv)	Funeral expenses	Rs.5,000/-
(v)	Loss of estate	Rs.5,000/-
(vi)	Medical expenses	Rs.49,388/-
(vii)	TOTAL COMPENSATION AWARDED	Rs. 2,09,388/-

Hence, the claimants were found entitled to total compensation of Rs.2,09,388/- along with interest @ 6% 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 has been assessed by taking the notional income of the deceased as Rs.15,000/- p.a. The deceased was 14 years of age. The accident in the present case had taken place in the year 2009. Reference can be made to a 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.45,000/- 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.45,000/-p.a.
(ii)	Compensation after multiplier of 15 applied	45,000X15=6,75,000/-

(iii)	Funeral expenses	Rs.15,000/-
(iv)	Loss of estate	Rs.15,000/-
(v)	Medical expenses	Rs.49,388/-
(vi)	Loss of Filial Consortium	Rs.80,000/- (Rs.40,000/- each to appellants No. 1 and 2)
(vii)	TOTAL COMPENSATION AWARDED	Rs. 8,34,388/-
(ix)	ENHANCED AMOUNT OF COMPENSATION	Rs.8,34,388-2,09,388/= Rs.6,25,000/-

The enhanced amount of compensation of **Rs.6,25,000/-** 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

26.08.2019
Divyanshi

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