

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**FAO No. 4187 of 2012
Date of decision: 28.08.2019**

Kulwinder Kaur and others

...Appellants

V/s.

Pepsu Roadways Transport Corporation and another ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

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

RITU BAHRI, J. (Oral).

The claimants have come up in appeal against the award of the Tribunal dated 17.04.2012 whereby they have been awarded compensation of Rs.4,68,000/- on account of death of Hari Chand, who died in a road accident which took place on 11.03.2010.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 11.03.2010 Hari Chand boarded bus No. PB-11L-7901 for coming to village Jhanjheri. At about 6:00 p.m. when the bus reached the bus stand of Chandigarh and the passengers including Hari Chand were in the process of alighting from the bus, the driver of the bus without caring for the passengers in a rash and negligent manner started the bus. As a result of which Hari Chand fell on the road and suffered multiple injuries and finally he died. 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 bus. This finding has been rightly given in favour of the claimants keeping in view that FIR No. 99 (Ex.P1) under Sections 279 and 304-A IPC was registered at Police Station Kharar and the deposition of PW2 Chetan Dass, who was an eye witness to the accident.

The deceased was 35 years of age at the time of accident as per post mortem report (Ex.P2). The Tribunal had assessed following compensation by taking monthly income of the deceased as Rs. 4,000/- p.m.

Sr. No.	HEADS	CALCULATIONS
(i)	Annual Income	4,000X12=48,000/-
(ii)	1/3 rd deduction for personal expenses	48,000-16,000=Rs.32,000/-
(iii)	Multiplier of 14 is applied	32,000X14=4,48,000/-
(iv)	Funeral expenses	Rs.5,000/-
(v)	Loss of estate	Rs.15,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs. 4,68,000/-

Hence, the claimants were found entitled to total compensation of Rs.4,68,000/- 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

Learned counsel for the appellants has argued that as per salary certificate issued by Midway Resorts (Ex.P3), the deceased was working as helper/cleaner from 15.02.2006 till his death and he was earning Rs.6,000/- p.m. PW-3 Balbir Singh, Manager, Midway Resorts, who had proved the salary certificate (Ex.P3) also brought the attendance register.

I have heard learned counsel for the appellants 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.

A perusal of statement of Balbir Singh PW3 from the record shows that deceased had been working as housekeeper/cleaner and was earning Rs.6,000/- per month. He had also brought the attendance register showing regular attendance of the deceased upto 10.03.2010. However he did not bring appointment letter of the deceased and any accounts regarding the profit and loss and balance sheet of Resort. His statement cannot be discarded to assess the income of the deceased.

Hence, to meet the ends of justice, the compensation is hereby reassessed taking the income of the deceased as Rs.6,000/- p.m. and 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	6,000X12=Rs.72,000/-
(ii)	40% of (i) is to be added as future prospects	72,000+28,800=Rs.1,00,800/-
(iii)	1/3 rd of (ii) is to be deducted as personal expenses	1,00,800-33,600=Rs.67,200/-
(iv)	Compensation after multiplier of 16 applied	67,200X16=Rs.10,75,200/-
(v)	Funeral expenses	Rs.15,000/-
(vi)	Loss of estate	Rs.15,000/-
(vii)	Loss of Filial Consortium	Rs.1,20,000/- (Rs.40,000/- each to all the appellants)
(viii)	TOTAL COMPENSATION AWARDED	Rs. 12,25,200/-
(ix)	ENHANCED AMOUNT OF COMPENSATION	Rs.12,25,200-4,68,000/-= Rs.7,57,200/-

The enhanced amount of compensation of Rs.7,57,200/- 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

28.08.2019
Divyanshi

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