

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

**FAO No.4661 of 2012 (O&M)**

**Date of decision: 11.07.2019**

Inderjeet and others

....Appellants

Versus

Parveen and others

....Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**

Present: Mr. Anshumaan Dalal, Advocate,  
for the appellants.

Mr. Ashwani Talwar, Advocate,  
for respondent No.3-Insurance Company.

**RITU BAHRI J. (Oral)**

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Rohtak (hereinafter referred to as 'the Tribunal') vide award dated 27.03.2012, on account of death of Hoshiyar Singh in a motor vehicular accident which took place on 01.05.2011. Appellants are children of deceased-Hoshiyar Singh.

**FACTS NOT IN DISPUTE**

Brief facts of the case are that on 01.05.2011, Hoshiyar Singh (since deceased) was returning to his home at village Kultana on a motorcycle bearing registration No. HR-12-H-7013. His son Inderjeet (present appellant No.1) and his brother-in-law Kuldeep were following him on another motorcycle No. HR-12-H-5150. At about 10.00 P.M., when they reached near Sawastik Pipe Factory, Village Jakhodha, Bahadurgarh, a truck bearing registration No. HR-46-C-2764 being driven by respondent No.1-

Parveen in a rash and negligent manner, came from the side of Sampla and struck against the motorcycle of Hoshiyar Singh, as a result of which, he fell down and received injuries. Ultimately, he succumbed to the injuries. With regard to the accident, FIR No.161 dated 02.05.2011, under Sections 279/304-A IPC was registered against respondent No.1 at Police Station, Sadar, Bahadurgarh. Consequently, the claimant-appellants filed a claim petition before the Tribunal.

### **COMPENSATION ASSESSED BY THE MACT**

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had taken place on account of rash and negligent driving of offending vehicle by respondent No.1, as a result of which Hoshiyar Singh has died and thus, returned finding on issue no.1 in favour of the claimants. This finding was rightly given on the basis of the deposition of Inderjeet (PW-1), who was an eye witness of the accident. Further, the claimants have proved on record copy of postmortem report Ex.P1 and copy of FIR Ex.P2.

Tribunal has observed that at the time of death of deceased, all the claimants were major and by referring to a judgment passed by Hon'ble the Supreme Court in **Manjuri Bera vs. Oriental Insurance Company Ltd. & another**, 2007 ACJ 1273, they were found entitled to total compensation of Rs.50,000/- along with interest @ 6½% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-appellant has preferred the present appeal.

### **REASSESSED COMPENSATION**

I have heard learned counsel for the parties and perused the case file.

Learned counsel for the appellants has referred to a judgment passed by this Court in **New India Assurance Co. Ltd. vs. Avtar Singh & others**, FAO-1784-2018 (decided on 15.01.2019), wherein, initially, the Tribunal had awarded a compensation of Rs.7,23,400/- to the claimant. However, on an appeal filed by the Insurance Company, the award was modified and the claimant was granted Rs.1,00,000/- for loss of love and affection, Rs.10,000/- for loss of estate and Rs.25,000/- towards funeral expenses, total Rs.1,35,000/-. The above enhancement was made keeping in view the judgment passed by Hon'ble the Supreme Court in **Rajesh vs. Rajbir Singh**, 2013 (9) SCC 54.

On a specific query put to learned counsel for respondent No.3-Insurance, he states that no appeal has been filed against the aforesaid judgment passed in FAO No.1784-2018. Hence, this judgment has attained finality. In this case, the fact of accident is admitted and proved. It stands established that the deceased has died as a result of the accident. Parties are not in dispute with respect to the findings given by the Tribunal on issue No.1 that the accident had taken place on account of rash and negligent driving of the offending vehicle by respondent No.1.

In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed in view of the aforementioned judgments passed by Hon'ble the Supreme Court as well as this Court, as under:-

| Sr. No. | HEADS                      | CALCULATIONS  |
|---------|----------------------------|---------------|
| (i)     | Loss of love and affection | Rs.1,00,000/- |
| (ii)    | Loss of estate             | Rs.10,000/-   |
| (iii)   | Funeral expenses           | Rs.25,000/-   |

|      |                                        |                                           |
|------|----------------------------------------|-------------------------------------------|
| (iv) | <b>TOTAL COMPENSATION AWARDED</b>      | <b>Rs.1,35,000/-</b>                      |
| (v)  | <b>Enhanced amount of compensation</b> | <b>Rs.1,35,000 – 50,000 = Rs.85,000/-</b> |

The enhanced amount of compensation of **Rs.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 keeping in view the judgment passed by Hon'ble the Supreme Court in **Dara Singh @ Dhara Banjara vs. Shyam Singh Verma and others**, Civil Appeal No.4528 of 2019 (decided on 01.05.2019). Remaining conditions of disbursal of amount shall remain unaltered.

Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

**(RITU BAHRI)**  
**JUDGE**

11.07.2019  
ajp

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