

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

218

FAO No.10185 of 2014 (O&M)

Date of decision: 12.09.2019

Ranjita Kaushik and others

.... Appellants

Versus

Ashok Kumar and others

.... Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. K.P. Singh, Advocate Amicus Curiae with
Mr. S.S. Khurana, Advocate
for the appellants.

Mr. A.K. Yadav, Advocate
for respondents No.1 and 2.

Mr. Amit Kundra, Advocate
for respondent No.3.

RITU BAHRI, J. (ORAL)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Rewari (hereinafter referred to as 'the Tribunal') vide award dated 08.07.2014 on account of death of Manglesh Kaushik in a motor vehicular accident which took place on 20/21.02.2013. Appellant No.1 is widow, appellant No.2 is son and appellant Nos.3 and 4 are parents of deceased Manglesh Kaushik.

FACTS NOT IN DISPUTE

Brief facts of the case are that on the intervening night of 20/21.02.2013 at about 1.00 p.m. Manglesh Kaushik, since deceased, was going on his Scooty towards Sector 4-6, Dharuhera through his service lane.

He was driving his Scooty on his correct left side of the road and when he reached in front of Bajaj Agency, respondent No.1 came driving the offending vehicle in rash and negligent manner and at very high speed from the side of Bus stand Dharuhera and hit the scooty of Manglesh Kaushik from behind. Due to this accident, Manglesh Kaushik fell on the road and sustained multiple and fatal injuries. Immediately after the accident, he was brought to Apex Hospital, Dharuhera where he was medico-legally examined and treated and ultimately succumbed to the injuries in the hospital. The matter was then reported to police vide First Information Report No.42 dated 21.02.2013 for the offence under Sections 279 and 304-A of Indian Penal Code at Police Station Dharuhera against respondent No.1. 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 the offending vehicle by its driver, which resulted into the death of Manglesh Kaushik. This finding was rightly given on the basis of deposition of Om Parkash (PW-3), who was eye witness of the accident. Apart from this, claimants have also proved on record copy of FIR Ex.PW3/B and postmortem report of deceased Ex.PW1/B.

The deceased was employed as Executive in Honda Motorcycle and Scooter India Pvt. Ltd. On the basis of evidence adduced by the claimants, income of the deceased was assessed as Rs.23,750/- per month, out of which, one-fourth amount was deducted towards his personal expenses. By doing so, the total income of deceased came to Rs.17,813/- per

month i.e. Rs.2,13,756/- per annum. As per postmortem report, deceased was 30 years of age at the time of death/accident. Accordingly, multiplier of 17 was applied. After applying the multiplier of 17, dependency of claimants came to Rs.36,33,852/- (2,13,756/- x 17). In addition to it, Rs.25,000/- were awarded on account of funeral expenses, Rs.5000/- towards loss of estate, Rs.1,00,000/- to claimant No.1-widow towards loss of consortium and Rs.9720/- was awarded on account of medical expenses. Hence, the claimants were found entitled to total compensation of Rs.37,73,572/- 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. Parties are not in dispute that the accident had taken place on account of rash and negligent driving of the offending vehicle by its driver. In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed in view of the judgments passed by Hon'ble the Supreme Court in *Sarla Verma and others vs. Delhi Transport Corporation and another*, 2009 (3) RCR (Civil) Page 77, *National Insurance Company Limited vs. Pranay Sethi and others*, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017), and *Magma General Insurance Company Ltd. vs. Nanu Ram alias Chuhru Ram and others*, Civil Appeal No.9581 of 2018, as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.23,750/- per month
(ii)	40% of (i) above to be added as future prospects	Rs.23750 + Rs.9500 = Rs.33,250/-
(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	Rs.33,250/- – Rs.11,083 = Rs.22,167/-
(iv)	Compensation after multiplier of 17 is applied	Rs.22,167/- x 12 x 17 = Rs.45,22,068/-
(v)	Loss of estate	Rs.15,000/-
(vi)	Funeral expenses	Rs.15,000/-
(vii)	Loss of consortium to appellant No.1- widow	Rs.40,000/-
(viii)	Loss of filial consortium to child and parents-appellant Nos.2 to 4	Rs.1,20,000/- (Rs.40,000/- each)
(ix)	Total Compensation awarded	Rs.47,12,068/-
(x)	Enhanced amount of compensation	Rs.47,12,068 – 37,73,572 = Rs.9,38,496/-

The enhanced amount of compensation of **Rs.9,38,496/-** 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 vs. Shyam Singh Varma and others**, Civil Appeal No.4528 of 2019 (arising out of SLP (C) No.5720 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.

12.09.2019
D.Bansal

(RITU BAHRI)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No