

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

**FAO No.10560 of 2014 (O&M)
Date of decision: 16.07.2019**

Smt. Reena Devi and others

....Appellants

Versus

Karam Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Surender Deswal, Advocate,
for the appellants.

Mr. Vishwajit Bedi, 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, Panchkula (hereinafter referred to as 'the Tribunal') vide award dated 12.04.2012 on account of death of Vikram Singh in a motor vehicular accident which took place on 28.05.2010. Appellant No.1 is widow, appellant Nos.2 & 3 are parents and respondent Nos.4 and 5 are brother & sister of deceased Vikram Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 28.05.2010 Vikram Singh (since deceased) was going towards his village on a motorcycle bearing registration No. HR-03-G-9006. His uncle Sardara Singh was also going behind him on a separate motorcycle No. HR-03-G-1969. When Vikram

Singh reached near ITBP at Village Bhanu, a truck bearing registration No. HR-37-5830 being driven by Karam Singh-respondent No.1 in a rash and negligent manner, came from the opposite side and struck against his motorcycle, as a result of which, Vikram Singh suffered grievous injuries and died on the spot. With regard to the accident, FIR was registered on the basis of statement of Sardara Singh. Consequently, the claimant-appellants filed a claim petition under Section 166 of the Motor Vehicle Act 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-respondent No.1 and thus, returned finding on issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of Sardara Singh (PW-1), who was an eye witness of the accident and on whose statement, FIR was registered.

The deceased was working as driver with M/s Virgo Boards Ltd. and was getting a salary of Rs.5850/- per month. Accordingly, income of the deceased was assessed by the Tribunal as Rs.5850/- per month. Out of this income, 1/4th amount was deducted towards his personal expenses. By doing so, remaining amount came to be Rs.4388/- per month i.e. Rs.52,656/- per annum. The deceased was 22 years of age at the time of death/accident. Accordingly, multiplier of 18 was applied. After applying the multiplier of 18, dependency of claimants came to Rs.9,47,808/-. In addition to this, Rs.10,000/- were awarded as loss of consortium, Rs.10,000/- as loss of estate and Rs.10,000/- as funeral expenses. Hence, the

claimants were found entitled to total compensation of Rs.9,77,808/- along with interest at the rate of 6% per annum from the date of filing of 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 with regard to the findings given by Tribunal on issue No.1 that the accident had taken place due to rash and negligent driving of 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 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 Co. Ltd. vs. Nanu Ram alias Chuhru Ram & Ors.**, 2018 (4) RCR (Civil) 333, as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.6000/- per month
(ii)	40% of (i) above is added towards future prospects	Rs.6000 + 2400 = 8400/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	8400 – 2100 = Rs.6300/-
(iv)	Compensation after multiplier of 18 is applied	Rs.6300/- x 12 x 18 = Rs.13,60,800/-

(v)	Loss of consortium to widow (appellant No.1)	Rs.40,000/-
(vi)	Loss of filial consortium to parents (appellant Nos.2 and 3)	Rs.80,000/- (Rs.40,000/- each).
(vii)	Loss of estate	Rs.15,000/-
(viii)	Funeral Expenses	Rs.15,000/-
(ix)	TOTAL COMPENSATION AWARDED	Rs.15,10,800/-
(x)	Enhanced amount of compensation	Rs.15,10,800 – 9,77,808 = Rs.5,32,992/-

The enhanced amount of compensation of **Rs.5,32,992/-** 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 & 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.

(RITU BAHRI)
JUDGE

16.07.2019
ajp

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