

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 2285 of 2014 (O&M)
Date of decision: 09.09.2019

Azad Singh and another

...Appellants

V/s.

Gautam Auto Pvt. Ltd and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Tarun Yadav, Advocate for
Mr. Tapan Kumar Yadav, Advocate
for the appellants.

Mr. R.A. Sheoran, Advocate for
cross-objector/respondent No. 1.

Mr. Rajneesh Malhotra, Advocate for
respondent No.2-insurance co.

RITU BAHRI, J. (Oral).

CM-8960-CII-2019 in
XOBJC-80-2019

Application is allowed and certified copy of national permit of vehicle No. HR-55-L-1403 dated 10.08.2011 (Annexure A-1) is taken on record as additional evidence.

The cross-objection has been filed by respondent No.1-Gautam Auto Pvt. Ltd. since the Tribunal has given the recovery rights to the insurance company to recover the amount from the owner of the vehicle.

Learned counsel for the insurance company has informed that as per Annexure A-1, the owner was permitted to drive vehicle from 09.08.2011 to 08.08.2012 and this permit has been duly verified by the

insurance company. The cross objection is allowed and recovery rights given to the insurance company are set aside.

An amount of Rs.25,000/- deposited by respondent No. 1 will be released to him.

Pending application in cross objection also stands dismissed.

FAO-2285-2014

The claimants have come up in appeal against the award of the Tribunal dated 28.01.2014 whereby they have been awarded compensation of Rs.7,10,808/- on account of death of Praveen Kumar, who died in a road accident which took place on 08.02.2012.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 08.02.2012 at about 6:30 p.m. Praveen Kumar (since deceased) with his brother-in-law Mahinder Singh was heading towards Pataudi from Bilaspur, after distributing marriage cards of Mahinder Singh's sister on motorcycle bearing registration No. DL-85-NB-6633 for returning to village Tajnagar and the motorcycle was being driven by Mahinder Singh in a slow speed and the deceased Praveen Kumar was sitting behind him and when they were some ahead of village Bhora Kalan, then a trailer/Ashok Leyland vehicle bearing registration No. HR-55-L-1403 driven by respondent No. 3 came from behind in a very high speed and in rash and negligent manner and hit the motorcycle from behind, as a result of which Mahinder Singh fell down on the side of the road but Praveen Kumar came under the wheels of the said trailer and sustained multiple injuries, as a result of which he died on the spot. 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 vehicle. This finding has been rightly given in favour of the claimants keeping in view FIR No. 34 dated 09.02.2012 under Sections 279 and 304A IPC was registered at Police Station Bilaspur, Gurgaon and challan was also presented on 09.05.2012 against respondent No. 3.

The deceased was 19 years of age as per the post mortem report Mark 'X' and was bachelor at the time of accident. The Tribunal had assessed monthly income of the deceased as Rs.6,026/- p.m. considering him as unskilled labourer in the year 2012 and assessed the following compensation:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs. 6,026/-p.m.
(ii)	½ deduction for personal expenses	6,026-3,013=Rs.3,013/-
(iii)	Annual loss of dependency after applying multiplier of 18	3,013X12X18=Rs.6,50,808/-
(iv)	Funeral expenses	Rs.20,000/-
(v)	Loss of estate	Rs.20,000/-
(vi)	Non-pecuniary damages	Rs.20,000/-
	TOTAL COMPENSATION AWARDED	Rs. 7,10,808/-

Hence, the claimants were found entitled to total compensation of Rs.7,10,808/- along with interest @ 7.5% 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.

Hence, to meet the ends of justice, the compensation is hereby reassessed 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)	Income	Rs.6,026/-p.m.
(ii)	40% future prospects	6,026+2410=Rs.8,436/-
(ii)	½ deduction for personal expenses	8436-4218=4218
(iii)	Annual loss of dependency after applying multiplier of 18	4218X12X18=Rs.9,11,088/-
(iv)	Funeral expenses	Rs.15,000/-
(v)	Loss of estate	Rs.15,000/-
(vi)	Loss of filial consortium	Rs.80,000/- (Rs.40,000/- each to both the appellants)
	TOTAL	Rs. 10,21,088/-
	ENHANCED COMPENSATION	Rs.10,21,088- Rs.7,10,808=Rs.3,10,280/-

The enhanced amount of compensation of **Rs.3,10,280/-** 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

09.09.2019
Divyanshi

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