IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

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FAO No.2341 of 2015 (O&M)
Decided on : 19.09.2019

Shakuntla @ Shakuntla Devi and others

... Appellants

Versus

Sanjeev Kumar and others

.. Respondents

CORAM : HON'BLE MS.JUSTICE RITU BAHRI

Present : Mr.Chetan Goyal, Advocate
for the appellants.

Mr.R.C.Gupta, Advocate
for respondent No.3-Insurance company

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Ritu Bahri, J. (Oral)

The appellants have come up in appeal against the award dated 02.02.2015 whereby compensation of Rs.12,19,977/- has been awarded on account of death of Brij Lal in a road accident which took place on 21.2.2014.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 21.2.2014, deceased Brij Lal was driving motorcycle Hero Honda No.PB-11-AC-7732 and his wife Shankuntla Devi was pillion riding on that motorcycle. The motorcycle was being driven on correct left land side of the road and at a normal speed. They were going from village Raipur Mandian to their house on Ghanaur Bahadurgarh road. When they reached near sheller of Hukam Chand, a motor-cycle Bajaj Platina bearing No.PB-39-F-4320 came from Bahadurgarh side. Respondent No.1 was driving the said motorcycle at a very fast speed, in a rash and negligent manner, it struck against the motorcycle of the deceased. As a result of which both the riders of the motorcycle No.PB-11-AC-7732 fell down and suffered multiple simple and grievous injuries. Brij Lal injured was taken to Rajindra Hospital, Patiala where he succumbed to the injuries suffered by him in the accident. FIR No.35 dated 21.2.2014 was registered at Police Station Sadar, Patiala for the offence under Sections 279/304-A IPC.

COMPENSATION ASSESSED BY THE MACT

Finding on issue No. 1 has been rightly returned in favour of the claimants as FIR No.35 dated 21.2.2014 was registered at Police Station Sadar, Patiala for the offence under Sections 279/304-A IPC, against respondent No.1 and he was charge-sheeted. Hence, the negligence is not disputed between the parties. The deceased was 59 years of age at the time of accident and the Tribunal had assessed the income of the deceased as Rs.1,65,830/- per annum. The compensation has been assessed as under:-

Sr.No.	Heads	Calculations
(i)	Income	Rs.1,65,830/-
(ii)	1/3rd of (i) above is deducted as personal expenses of the deceased	Rs.1,65,830-55277 =Rs.1,10,553/-
(iii)	Compensation after applying multiplier 9	Rs.1,10,553 X 9= Rs.9,94,977
(iv)	Loss of consortium	Rs.1,00,000/-
(v)	Funeral expenses	Rs.25,000/-
(vi)	Loss of love and affection	Rs.1,00,000/-
	Total compensation awarded	**Rs.12,19,777/-**

Hence, the claimants were found entitled to total compensation of **Rs.12,19,777/-** along with interest 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

Learned counsel for the appellants states that the benefit of future prospects ought to have been granted. The date of birth of the deceased mentioned in Income Tax Return exhibited as Ex.P-4, is 01.11.1954, hence on the date of accident, the deceased was 59 years old. Income of the deceased is recalculated as Rs.1,65,830/-from the average of three years ITRs furnished by her wife.

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. In the peculiar facts and circumstances of the case, 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.1,65,830/-
	10% future prospects (Rs.16,583)	Rs.1,65,830 + 16,583 = Rs.182413/-
(ii)	1/3th of (i) above is deducted as personal expenses of the deceased	Rs.182413-Rs.60,804 =Rs.121609/-
(iii)	Compensation after applying multiplier 9	Rs.121609/- X 9=Rs.10,94,481
(iv)	Funeral expenses	Rs.15,000
(v)	Loss of estate	Rs.15000/-
(vi)	Loss of total consortium to all claimants No.1 to 3	Rs.1,20,000/- (Rs.40,000/- each)
	Total compensation awarded	Rs.12,44,481/-
	Total enhanced compensation	Rs.12,44,481- **12,19,777 =Rs.24,704/-**

The enhanced amount of compensation of **Rs.24,704/-** 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

19.09.2019
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No