

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

**FAO No.3952 of 2014 (O&M)
Date of decision: 16.07.2019**

Anu Sharma and others

....Appellants

Versus

Sh. Mukesh Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Ms. Ekta Thakur, Advocate,
for the appellants.

Mr. M.B. Jain, 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, Chandigarh (hereinafter referred to as 'the Tribunal') vide award dated 21.03.2014, on account of death of Manoj Kumar Sharma in a motor vehicular accident which took place on 07.03.2012. Appellant No.1 is widow, appellant Nos. 2 & 3 are children and appellant Nos. 4 & 5 are parents of deceased Manoj Kumar Sharma.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 07.03.2012, after finishing his work, Krishan Kumar (since deceased) along with Mukesh Singh-respondent No.1 was returning to his house on a scooter bearing registration No. PB-65-C-1052. The said scoter was being driven by respondent No.1 in a rash and negligent manner, whereas Krishan Kumar was a pillion rider. At

Bhawan, Sector 52, Chandigarh, a stray dog came in front of the scooter. As the scooter was at a high speed, respondent No.1 could not control the same and struck against the dog, as a result of which, both the occupants of scooter fell on the road. Manoj Kumar Sharma received multiple injuries on vital parts of his body, including head injury, which proved fatal for him. With regard to the accident, DDR Ex.P1 was recorded on the basis of statement of Vishal Goyal (PW-2). 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 Manoj Kumar Sharma 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 Vishal Goyal (PW-2), who was an eye witness of the accident and on whose statement, the DDR Ex.P1 was registered. Further, the claimants have proved on record copy of postmortem report as Ex.P2.

Deceased-Manoj Kumar Sharma was working as Branch Manager with Blaiz Flash Courier Limited. As per salary slips Ex.P6 to Ex.P13, income of the deceased was assessed as Rs.7650/- per month. Out of this income, 1/4th amount was deducted towards personal expenses of the deceased. By doing so, remaining income came to Rs.5737.50/- per month. Deceased was 41 years of age at the time of accident/death. Multiplier of 14 was applied by the Tribunal. After applying the multiplier of 14, dependency of claimants Nos.1 to 3 (widow and minor children) came to Rs.9,63,900/- (5737.50 x 12 x 14). In addition to it, Rs.1,00,000/- were

awarded to claimant No.1-widow on account of loss of consortium, Rs.5000/- as loss of estte and Rs.25,000/- as funeral expenses. Hence, appellant-claimants were found entitled to total compensation of Rs.10,93,900/- along with interest @ 6% 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.

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 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.7650/- per month
(ii)	25% of (i) above to be added as future prospects	7650 + 1912 = Rs.9562/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	9562 – 2390 = Rs.7172/-

(iv)	Compensation after multiplier of 14 is applied	Rs.7172/- x 12 x 14 = Rs.12,04,896/-
(v)	Loss of consortium to widow-claimant No.1	Rs.40,000/-
(vi)	Loss of estate	Rs.15,000/-
(vii)	Loss of love and affection to children i.e. claimant-appellant Nos. 2 and 3	Rs.80,000/- (Rs.40,000/- each)
(viii)	Funeral expenses	Rs.15,000/-
(ix)	TOTAL COMPENSATION AWARDED	Rs.13,54,896/-
(x)	Enhanced amount of compensation	Rs.13,54,896 – 10,93,000 = Rs.2,61,896/-

The enhanced amount of compensation of **Rs.2,61,896/-** 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