

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

**FAO No.3978 of 2014 (O&M)
Date of decision: 04.10.2019**

Jasbir Kaur and others

....Appellants

Versus

Gagandeep Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Binny Joshi, Advocate,
for Ms. Ekta Thakur, Advocate,
for the appellants.

Mr. Amit Kundra, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

As per Office report, notice to respondent No.2 could not be issued for want of correct address.

Learned counsel for the appellants states that correct address of respondent No.2 is not available with the appellants.

Keeping in view that the liability to pay compensation is joint and several, service on respondent No.2 is dispensed with at this stage.

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 06.11.2013 on account of death of Manoj Kumar in a motor vehicular accident which took place on 21.04.2012. Appellants are widow, father and

daughter of deceased Manoj Kumar.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 21.04.2012, Manoj Kumar (since deceased) was going from Phase-XI towards Phase-X, Mohali on his motorcycle. When he reached near light point of Mandi Karan Board, Mohali, in the meantime, a Maruti Swift car No.CH-04-C-8973, being driven by Gagandeep Singh-respondent No.1 in a rash and negligent manner, came from the opposite side and struck against the motorcycle, as a result of which, he (Manoj Kumar) fell down along with his motorcycle and received multiple injuries. Manoj Kumar was shifted to Government Hospital, Phase-VI, Mohali, where he was declared brought dead. With regard to the incident, FIR Ex.P1 was registered 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 Manoj Kumar. This finding was rightly given on the basis of deposition of Beeru (PW-1), who was eye witnesses of the accident. Apart from this, claimants have also proved on record copy of FIR Ex.P1 and postmortem report of deceased as Ex.P3.

In the absence of any documentary evidence, income of deceased was taken as Rs.5000/- per month as that of a labourer, out of which, one-third ($1/3^{\text{rd}}$) amount was deducted towards his personal expenses. By doing so, the total income of deceased came to Rs.3334/- per month i.e. Rs.40,008/-. The deceased was 29 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.6,80,136/- (40,008/- x 17). In this amount, 50% addition was made on account of future prospects and the total dependency came to Rs.10,20,204 (6,80,136 + 3,40,068). In addition to it, Rs.1,00,000/- were awarded on account of loss of consortium, Rs.25,000/- as funeral expenses and Rs.25,000/- for loss of love and affection. Hence, the claimants were found entitled to total compensation of Rs.11,70,204/- along with interest @ 7.5% 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. Accident, in the present case, took place on 21.04.2012. As per claimants, deceased was working as Security Guard with M/s S.K. Associates and Security. As per minimum wages in State of Punjab, his income has to be taken as Rs.6500/- as that of highly skilled labourer. In this case, compensation on account of loss of consortium to the tune of Rs.1,00,000/- has been awarded by the Tribunal as per the law prevalent at that time. Therefore, this amount is not required to be interfered with. 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.6500/- per month
(ii)	40% of (i) above to be added as future prospects	6500 + 2600 = Rs.9100/-
(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	9100 – 3033 = Rs.6067/-
(iv)	Compensation after multiplier of 17 is applied	Rs.6067/- x 12 x 17 = Rs.12,37,668/-
(v)	Loss of estate	Rs.15,000/-
(vi)	Funeral expenses	Rs.15,000/-
(vii)	Loss of consortium to the widow-appellant No.1	Rs.1,00,000/-
(viii)	Loss of filial consortium to the father and daughter-claimant Nos.2 & 3).	Rs.80,000/- (Rs.40,000/- each)
(ix)	TOTAL COMPENSATION AWARDED	Rs.14,47,668/-
(x)	Enhanced amount of compensation	Rs.14,47,668 – 11,70,204 = Rs.2,77,464/-

The enhanced amount of compensation of **Rs.2,77,464/-** 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.

(RITU BAHRI)
JUDGE

04.10.2019
ajp

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