

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

**FAO No.4036 of 2014 (O&M)
Date of decision: 25.11.2019**

Harvinder Kaur and another

....Appellants

Versus

Hari Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. R.K. Shukla, Advocate,
for the appellants.

Mr. R.K. Bansal, Advocate,
for respondent Nos. 1 and 2.

Mr. Punit 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, Patiala (hereinafter referred to as 'the Tribunal') vide award dated 09.07.2013 on account of death of Navjot Singh Kohli in a motor vehicular accident which took place on 15.06.2011. Appellants are parents and respondent No.4-Daljit Singh is brother of deceased Navjot Singh Kohli.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 15.06.2011, at about 5.45

house in Model Town area, Patiala on a scooter. When he reached near Government Civil Lines School, Patiala, in the meantime, one Innova car bearing registration No.PB-11-AR-2325 being driven by Hari Singh-respondent No.1 in a rash and negligent manner, came and struck against the scooter of Navjot Singh, as a result of which, he (Navjot Singh) fell down and was dragged at some distance. In this accident, he received multiple serious injuries. He was taken to Columbia Asia Hospital, Patiala, where he remained admitted from 15.06.2011 to 02.09.2011. He was again got admitted in Sadhbhawna Hospital, Patiala on 12.10.2011. Unfortunately, he succumbed to the injuries on 16.10.2011. With regard to the incident, FIR No.118 dated 22.06.2011, under Sections 279/337 IPC 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 Navjot Singh Kohli. This finding was rightly given on the basis of deposition of Amrinder Singh (PW-4), who was eye witnesses of the accident. Apart from this, claimants have also proved on record copy of FIR Ex.P19 and postmortem report of deceased as Ex.P18.

On the basis of evidence adduced by the claimants, income of the deceased was assessed as Rs.4500/- per month, out of which, one-half (50%) amount was deducted towards his personal expenses as he was a bachelor. By doing so, the total income of deceased came to Rs.2250/- per month i.e. Rs.27,000/- per annum. As per postmortem report Ex.P18,

deceased was 19 years of age at the time of death/accident. However, multiplier of 11 was applied keeping in view the age of his father. After applying the multiplier of 11, dependency of claimants came to Rs.2,97,000/- (27,000/- x 11). In addition to it, Rs.5,000/- were awarded on account of funeral expenses, Rs.5000/- towards consortium and Rs.15,00,000/- as expenses incurred on the treatment of deceased. Amount of Rs.7314/-, which had been received by claimants as discount, was deducted from the total compensation. Hence, the claimants were found entitled to total compensation of Rs.17,99,686/-, rounded off as Rs.18,00,000/- along with interest @ 8% 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. There is no dispute with regard to finding given by Tribunal on issue No.1 that the accident had taken place on account of rash and negligent driving of offending vehicle by its driver. As per claimants, deceased was student of B.Com, IInd year, at Khalsa College, Patiala and was working as trainee with C.A. Accordingly, the income of deceased is being assessed as Rs.5500/- per month as that of skilled labourer. 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.5500/- per month
(ii)	40% of (i) above to be added as future prospects	5500 + 2200 = Rs.7700/-
(iii)	50% of (ii) above is deducted as personal expenses of the deceased	7700 – 3850 = Rs.3850/-
(iv)	Compensation after multiplier of 18 is applied	Rs.3850/- x 12 x 18 = Rs.8,31,600/-
(v)	Loss of estate	Rs.15,000/-
(vi)	Funeral expenses	Rs.15,000/-
(vii)	Loss of filial consortium to the parents i.e. appellants.	Rs.80,000/- (Rs.40,000/- each)
(viii)	Loss of filial consortium to brother-respondent No.4.	Rs.40,000/-
(ix)	Medical/treatment expenses	Rs.15,00,000/- (as awarded by the tribunal)
(x)	TOTAL COMPENSATION AWARDED	Rs.24,81,600/-
(xi)	Enhanced amount of compensation	Rs.24,81,600 – 18,00,000 = Rs.6,81,600/-

The enhanced amount of compensation of **Rs.6,81,600/-** 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

25.11.2019
ajp

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