

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

**FAO-2458-2015
Date of decision: 15.07.2019**

Jainam and another

...Appellants

V/s.

Amarjot Singh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Neeraj Khanna, Advocate for the appellants.

Mr. S.K. Yadav, Advocate for respondent-insurance co.

RITU BAHRI, J. (Oral).

The appellants have come up in appeal against the award dated 07.10.2014 whereby compensation of Rs.5,44,000/- has been awarded on account of death of their son Sadiq who was 16 years of age and died in a road accident which took place on 18.02.2014 .

FACTS NOT IN DISPUTE

Brief facts of the case are that on 18.02.2014, Sadiq was going towards Morinda on bicycle. At about 4.30 p.m., when Sadiq was coming from bus stand Morinda side towards Kinoor Chownk Morinda, he was on the left side of the road, then in the meanwhile from rear side a bus No. PB-11-U-8757 driven by respondent No. 1 rashly and negligently struck the same with the bicycle of Sadiq. Due to that impact, he fell down on road, both front and rear tyre of the bus ran over his thighs. He was taken to Indus Hospital Mohali where he succumbed to injuries on same day. FIR

No. 50 dated 19.2.2014 under Section 279, 304-A, 427 IPC was registered at Police Station Morinda on the statement of Raimat Ali.

COMPENSATION ASSESSED BY THE MACT

Finding on issue No. 1 has been rightly returned in favour of the claimants as FIR No. 50 dated 19.02.2014 under Sections 279, 304-A, 427 IPC (Ex. P2) was lodged against the driver and he was charge-sheeted vide charge-sheet (Ex. P3). Hence, the negligence is not disputed between the parties.

The deceased was 16 years of age and the Tribunal had assessed his notional income as Rs.6,000/- per month. The compensation has been assessed as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	6000 X 12= 72,000/- p.a.
(ii)	½ of (i) above is deducted as personal expenses of the deceased	72000-36000= 36000
(iii)	Compensation after multiplier of 14 applied	36000X14=504000
(iv)	Loss of love and affection	20000
(v)	Funeral expenses	20000
(vi)	TOTAL COMPENSATION AWARDED	Rs. 5,44,000/-

Hence, the claimants were found entitled to total compensation of Rs.5,44,000/- 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

Learned counsel for the appellants states that the deceased was 16 years of age and he was looking after dairy farming, the benefit of future prospects ought to have been granted and multiplier of 18 ought to have

been applied. Learned counsel for the insurance company is disputing the age of the deceased. Since the insurance company has not filed any appeal, the age of the deceased is considered as 16 years.

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.6500 X12=Rs.78,000 p.a.
(ii)	40% of (i) above to be added as future prospects	78,000+31,200=1,09,200
(iii)	½ of (ii) above is deducted as personal expenses of the deceased	1,09,200-54,600=54,600
(iv)	Compensation after multiplier of 18 applied	54,600X18=9,82,800/-
(v)	Funeral expenses	Rs.15,000/-
(vii)	Loss of Filial Consortium	Rs.80,000/- (Rs.40,000/- each to appellants No. 1 and 2)
(vii)	TOTAL COMPENSATION AWARDED	Rs. 10,77,800/-
(ix)	ENHANCED AMOUNT OF COMPENSATION	Rs.10,77,800-Rs.5,44,000 = Rs. 5,33,800/-

The enhanced amount of compensation of Rs.5,33,800/- 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

15.07.2019
Divyanshi

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