

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

FAO No.4520 of 2014 (O&M)

Date of decision: 18.12.2019

Rakesh Kumar

....Appellants

Versus

Chand Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Dalbir Singh, Advocate,
for the appellant.

Mr. Subhash Goyal, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as 'the Tribunal') vide award dated 02.04.2014, on account of death of Chameli Devi in a motor vehicular accident which took place on 08.06.2012. Appellant is the son of deceased Chameli Devi.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 08.06.2012, claimant Rakesh Kumar and Chameli Devi (since deceased) were going to Narnaul on a motorcycle bearing No. DL-9-SV-0547. The said motorcycle was being driven by claimant-Rakesh Kumar. At about 11.30 A.M., when they reached in front of Saini Dharamkanta, Nizampur road, a truck bearing registration No. HR-63-B-4049 being driven by Chand Singh-respondent No.1 in a rash and negligent manner, came from behind and struck against the motorcycle,

as a result of which, claimant and his mother Chameli Devi fell down and received grievous injuries. Chameli Devi was shifted to Government Hospital, Narnaul, where she was declared dead. With regard to the accident, FIR No.196 dated 08.06.2012, under Sections 279/337/304-A IPC was registered at Police Station, City Narnaul. Consequently, the claimant-appellant 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 Chameli Devi has died and thus, returned finding on issue no.1 in favour of the claimant. This finding was rightly given on the basis of the deposition of Rakesh Kumar, claimant (PW-1) and Mohar Singh (PW-2), who was eye witness of the accident. Further, the claimant has proved on record copy of FIR Ex.PW4 and postmortem report of deceased as Ex.PW5.

Deceased-chameli Devi was doing agricultural work. The Tribunal has observed that claimant-Rakesh Kumar was not dependent upon his mother and there was no loss of dependency to him. However, keeping in view Section 140 of the Motor Vehicle Act, claimant was held entitled to receive a sum of Rs.50,000/- to be paid by respondent No.2-Rajbir Singh, owner of the offending vehicle, along with with interest @ 7.5% 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.

At this stage, reference can be made to a judgment passed in **United India Insurance Company Limited vs. Sube Singh and others**, FAO-218-2014 (decided on 15.01.2014), wherein deceased as 40 years old lady and the Co-ordinate Bench of this Court has observed that to tag a housewife as a 'skilled' worker alone does not do complete justice to her multifarious role as a home manager. It has further been observed that a housewife is something more than a mere skilled worker and it would not be unreasonable to estimate the contribution of the deceased at a higher figure. Being a housewife, her income had been assessed at Rs.9000/- per month and no deduction was made in the income, so assessed.

In the facts of the present case, deceased-Chameli Devi used to do the agricultural and milk dairy work. She was also getting pension of Rs.8000/- per month. The claimant was dependent upon her mother for his livelihood. Deceased was 50 years of age at the time of death/accident. Therefore, following the ratio of judgment passed in **Sube Singh's** case (supra), income of deceased is being assessed as Rs.9000/- per month. Hence, in the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed in view of the law laid down 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), Magma General Insurance Co. Ltd. vs. Nanu Ram alias Chuhru Ram & Ors., 2018 (4) RCR (Civil) 333 and Sube Singh's case (supra), as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.9000/- per month
(ii)	Compensation after multiplier of 09 is applied (age 50 years)	9000 x 12 x 09 = Rs.9,72,000/-
(iii)	Loss of filial consortium to the appellant-claimant (son)	Rs.40,000/-
(iv)	Compensation on account of loss of estate	Rs.15,000/-
(v)	Funeral expenses	Rs.15,000/-
(vi)	TOTAL COMPENSATION AWARDED	Rs.10,42,000/-
(vii)	Enhanced amount of compensation	Rs.10,42,000 – 50,000 = Rs.9,92,000/-

The enhanced amount of compensation of **Rs.9,92,000/-** 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.

18.12.2019
ajp

(RITU BAHRI)
JUDGE