

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

FAO-2201-2016

Date of decision: 10.12.2019

Ravita Yadav and others

...Appellants

V/s.

Bhanu Partap and another

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. S.K.Jain, Advocate for
Mr. Arjun Atri, Advocate
for the appellants.

Mr. Amit Jaiswal, Advocate for
respondent No.2-insurance co.

RITU BAHRI, J. (Oral).

The appellants have come up in appeal against the award of the Tribunal dated 30.11.2015 whereby they have been awarded compensation of Rs.8,93,000/- on account of death of Ravinder Yadav, who died in a road accident which took place on 27.04.2014.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 27.04.2014 Ravinder Yadav (deceased) alongwith Ashok Kumar was going towards Pataudi from Gurgaon on a motorcycle bearing registration No.HR-26CC-8288. The motorcycle was being driven by Ravinder Yadav at a slow and moderate speed and on the correct left side of the road. At about 4:30 p.m., when they reached near the shop of Ramesh at village Garauli Khurd, then the offending car bearing No. DL-1YD-5220 being driven by respondent No.1

at a very fast speed, rashly and negligently came from the back side and struck into their motorcycle from behind. As a result of which Ravinder and Ashok fell down on the road alongwith the motorcycle and entangled into the bumper of the offending car and received serious and grievous injuries on their person. With the help of people they were shifted to Sunrise Hospital, Khandsa Road, Gurgaon by an ambulance. However Ravinder succumbed to his injuries there. Consequently, the claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

The parties are not in dispute with respect to finding on issue No. 1 that the accident took place on account of negligent driving by the driver of the offending vehicle i.e. car. This finding has been rightly given in favour of the claimants keeping in view FIR No.258 dated 27.04.2014 (Ex.P2) under Sections 279, 338 and 304-A IPC was registered at Police Station Sector 10, Gurgaon against respondent No.1, copy of PMR (Ex.P1), copy of driving licence (Ex.P3) and copy of RC (Ex.P4) etc.

The deceased was 35 years at the time of accident as per post mortem report (Ex.P1) and the Tribunal assessed the following compensation while considering his income as Rs.6,000/-p.m. keeping in view the minimum wages:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.6,000/- p.m.
(ii)	1/3 rd of (i) deducted as personal expenses of the deceased	6,000-2,000=Rs.4,000/-
(iii)	Annual dependency after applying multiplier of 16	4,000X12X16=Rs.7,68,000/-
(iv)	Loss of consortium	Rs.1,00,000/-
(v)	Funeral expenses	Rs.25,000/-
	TOTAL COMPENSATION AWARDED	Rs.8,93,000/-

Hence, the claimants were found entitled to total compensation of Rs.8,93,000/- along with interest @ 9% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimants-appellants have preferred the present appeal.

Learned counsel for the appellants argued that as per the salary slip, the deceased was earning Rs.20,000/- per month and PW5 Gopal Mishra, Office Assistant, Saarth Enterprises, Dundahera, Gurgaon had also proved the pay slip for the month of the March 2014 and April 2014 of deceased Ravinder Yadav but this fact has been ignored by the Tribunal.

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. Finding of negligence has rightly been given by the Tribunal and it does not require any interference on that account.

As far as income of the deceased is concerned, the Tribunal had observed that PW5 Gopal Mishra, Office Assistant, Saarth Enterprises did not bring any attendance register, appointment letter or salary register. He did not prove any income tax return of the deceased. The salary slip in itself cannot be made basis for taking the salary as Rs.20,000/- p.m. In the present case, the accident took place on 27.04.2014 and as per the minimum wages in the State of Haryana of highly skilled labourer, the income can be taken as Rs.7,000/-p.m.

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	7,000X12=Rs.84,000/- p.a.
(ii)	1/3 rd deduction as personal expenses of the deceased	84,000-28,000=Rs.56,000/-
(iii)	40% of (ii) is added as future prospects	56,000+22,400=Rs.78,400/-
(iv)	Compensation after multiplier of 16 is applied	78,400X16=Rs.12,54,400/-
(v)	Funeral expenses	Rs.15,000/-
(vi)	Loss of estate	Rs.15,000/-
(vii)	Loss of <i>filial</i> consortium	Rs.1,20,000/- (Rs.40,000/- each to all the appellants)
	TOTAL COMPENSATION AWARDED	Rs.14,04,400/-
	ENHANCED AMOUNT OF COMPENSATION	14,04,400-8,93,000=Rs.5,11,400/-

The enhanced amount of compensation of **Rs.5,11,400/-** 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 appeal is allowed.

(RITU BAHRI)
JUDGE

10.12.2019
Divyanshi

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