

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 2488 of 2016
Date of decision: 24.09.2019

Shaili and another

...Appellants

V/s.

Tarsem Singh and others

...Respondents

AND

FAO No. 3527 of 2016

Arjan Singh

...Appellant

V/s.

Tarsem Singh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Upender Prasher, Advocate
for the appellants in FAO No. 2488 of 2016
and Mr. Kushagra Mahajan, Advocate
for the appellant in FAO No. 3527 of 2016

Mr. Bikramjit Aroura, Advocate
for respondents No. 1 and 2.

Mr. Pankaj Mehta, Advocate for
respondent No. 3-insurance co.

RITU BAHRI, J. (Oral).

This order shall dispose of two appeals bearing FAO No.2488 of 2016 and FAO No. 3527 of 2016 since the appellants in FAO No. 2488 of 2016 are wife and child of the deceased whereas appellant in FAO No. 3527 of 2016, is the father of the deceased. For the sake of convenience, both the appeals are decided together.

The claimants have come up in appeal against the award of the tribunal dated 04.01.2016 whereby they have been awarded compensation of Rs.12,10,000/- on account of death of Nishan Singh, who died in a road accident which took place on 14.05.2014.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 14.05.2014 at about 4:00 p.m., Nishan Singh while sitting on the pillion of motor cycle bearing No. PB-02-CE-8748 being driven by Judgebir Singh son of Ninder Singh, was going towards Amritsar from village Jhite Kalan. His father Arjan Singh alongwith Manga Singh were following them on separate motor cycle. When Judgebir Singh and Nishan Singh on their motorcycle reached at traffic signal lights chowk, Taran Wala bridge, Amritsar, offending truck bearing No. PB-02-BG-9661 being driven by respondent No. 1 Tarsem Singh at a very high speed and without blowing any horn, came from opposite side i.e. from the side of Kot Mit Singh. Respondent No. 1 Tarsem Singh while driving the offending truck in a rash and negligent manner, without caring for the traffic signal jumped the red light signal and struck his truck with the motorcycle upon which Nishan Singh was sitting as pillion rider. Due to this collision, both Nishan Singh and Judgebir Singh fell on the road and sustained serious injuries. The motor cycle was also badly damaged. Arjan Singh alongwith Manga Singh arranged for a conveyance and got both Nishan Singh and Judgebir Singh admitted in Plus Hospital, Mehta Road, Amritsar, where Nishan Singh succumbed to his injuries on the same day. The accident took place on account of sole rash and negligent driving of respondent No. 1. 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. This finding has been rightly given in favour of the claimants keeping in view an FIR No. 97 dated 14.05.2014 under Sections 304-A/279/337/338/427 IPC was registered at Police Station Sultanwind, Amritsar (Ex.P1) against respondent No. 1 and the testimony of PW1 Arjan Singh.

The deceased was 24 years of age as per the post mortem report (Ex.PX) . The tribunal had assessed monthly income of the deceased as Rs.5,000/- p.m. and assessed the following compensation:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	5,000/-p.m.
(ii)	50% of (i) above to be added as future prospects	5,000+2,500=Rs.7,500/-
(iii)	1/3 rd of (ii) deducted as personal expenses of the deceased	7,500-2,500=Rs.5,000/-
(iv)	Compensation after multiplier of 18 is applied	5,000X12X18=Rs.10,80,000/-
(v)	Loss of consortium	Rs.1,00,000/-
(vi)	Funeral expenses	Rs.25,000/-
(vii)	Loss of estate	Rs.5,000/-
	TOTAL COMPENSATION AWARDED	Rs.12,10,000/-

Hence, the claimants were found entitled to total compensation of Rs.12,10,000/- along with interest @ 7.5% 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.

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.

The deceased was 24 years of age and was doing welding work at Chamrang road, Amritsar. The tribunal had assessed his monthly income as Rs.5,000/- p.m. and as per the minimum wages prevalent in State of Punjab in the year 2014, a weldor can be taken as skilled labourer and his income can be taken as Rs.9,000/-p.m.

Hence, 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)	Annual Income	9,000X12=Rs.1,08,000/-
(ii)	40% increase as future prospects	1,08,000+43,200=Rs.1,51,200/-
(iii)	1/3 rd deduction for personal expenses	1,51,200-50,400=Rs.1,00,800/-
(iv)	Total loss of dependency after applying multiplier of 18	1,00,800X18=Rs.18,14,400/-
(v)	Funeral expenses	Rs.15,000/-
(vi)	Loss of estate	Rs.15,000/-
(vii)	Loss of filial consortium	Rs.1,20,000/- (Rs.40,000/- each to all the three appellants)
	TOTAL COMPENSATION AWARDED	Rs.19,64,400/-
	ENHANCED AMOUNT OF COMPENSATION	19,64,400-12,10,000=Rs.7,54,400/-

The enhanced amount of compensation of **Rs.7,54,400/-** 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. 90% of the enhanced compensation will be given to Shaili and Neha and 10% of the compensation will be given to Arjan Singh.

Accordingly, the award stands modified to the above extent and both the appeals are allowed.

(RITU BAHRI)
JUDGE

24.09.2019
Divyanshi

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