

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

FAO No.3510 of 2015 (O&M)

Date of decision: 22.08.2019

Pushpa Devi and others

....Appellants

Versus

Kapoor and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Rakesh Gupta, Advocate,
for the appellants.

Ms. Alka Joshi, 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 09.12.2014 on account of death of Ram Chand in a motor vehicular accident which took place on 16.04.2014. Appellants are widow, children and mother of deceased Ram Chand.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 16.04.2014, Ram Chand (since deceased) was going from his house towards bus-stand on a scooter bearing No. PB-11-T-4737. He was being followed by his son Rajinder Kumar-appellant No.3, who was going on a separate scooter. At about 11.00 A.M., when Ram Chand reached near Jhal Sahib Gurdwara, a tractor/loader container, make Swaraj 855, bearing registration No. PB-11-V-7836 being

driven by Kapoor-respondent No.1 in a rash and negligent manner, came and struck against the scooter, as a result of which, Ram Chand fell down on the road along with his vehicle and tyre of tractor ran over him. Due to this, Ram Chand became unconscious. He was taken to Rajindra Hospital, Patiala by Rajinder Kumar, however, doctors declared him brought dead. With regard to the incident, FIR No.39 dated 16.04.2014, under Sections 279/304-A IPC was registered against respondent No.1 at Police Station, Lahori Gate, Patiala. 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 and thus, returned finding on issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of Rajinder Kumar (CW-2), who was an eye witness of the accident. Further, the claimants have proved on record copy of FIR Ex.C1 and postmortem report of deceased as Ex.CB.

In the absence of any documentary evidence, income of the deceased was assessed as Rs.3000/- per month, out of which, one-third amount was deducted towards his personal expenses. By doing so, the total income of deceased came to Rs.2000/- per month i.e. Rs.24,000/- per annum. Deceased was 65 years of age at the time of death/accident. Accordingly, multiplier of 07 was applied. After applying the multiplier of 07, dependency of claimant came to Rs.1,68,000/- (2000 x 12 x 07). In addition to it, Rs.1,00,000/- were awarded on account of loss of consortium and Rs.25,000/- towards funeral expenses. Hence, the claimant Nos.1 and 5

were found entitled to total compensation of Rs.2,93,000/- along with interest @ 7.5% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-appellants have preferred the present appeal.

I have heard learned counsel for the appellant 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 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-respondent No.1. As per claimants, deceased was doing the work of stitching. Accident, in the present case, took place on 16.04.2014. As per minimum wages prevalent at that time, income of the deceased is being assessed as Rs.6400/- 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 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.6400/- per month
(ii)	1/4 th of (i) above is deducted as personal expenses of the deceased	6400 – 1600 = Rs.4800/-
(iii)	Compensation after multiplier of 07 is applied	Rs.4800/- x 12 x 07 = Rs.4,03,200/-

(iv)	Loss of estate	Rs.15,000/-
(v)	Funeral expenses	Rs.15,000/-
(vi)	Loss of consortium to all the claimants	Rs.2,00,000/- (Rs.40,000/- each)
(vii)	TOTAL COMPENSATION AWARDED	Rs.6,33,200/-
(viii)	Enhanced amount of compensation	Rs.6,33,200 – 2,93,000 = Rs.3,40,200/-

The enhanced amount of compensation of **Rs.3,40,200/-** 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

22.08.2019
ajp

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