

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 2535 of 2016

Date of decision: 17.10.2019

Santosh Devi and another

...Appellants

V/s.

Ravinder Kumar and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Tribhuvan Dahiya, Advocate
for the appellants.

Ms. Vandana Malhotra, Advocate for
respondent No.3-insurance co.

RITU BAHRI, J. (Oral).

The appellants have come up in appeal against the award of the tribunal dated 24.12.2015 whereby they have been awarded compensation of Rs.5,46,225/- on account of death of their son Deepak Kumar, who died in a road accident which took place on 06.06.2013.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 06.06.2013 at about 6.00 p.m. Deepak Kumar (deceased) was going to Rajeev Chowk from Hero Honda chowk by driving a van bearing registration No. HR-61/8923 of Rajesh son of Budh Ram. Rajesh was behind the van on his motorcycle. In the meantime a Bolero bearing registration No. HR-26 BS-0858 (hereinafter referred to as 'offending vehicle') came from Rajeev Chowk, driven by respondent No.1 in a rash and negligent manner at a high speed and hit the van from front side. Due to the accident, the van was totally damaged

from front side and Deepak Kumar (since deceased) received many grievous injuries and fell unconscious. With the help of the people, Rajesh brought Deepak in ambulance at Sunrise Hospital, Gurgaon and admitted there. Doctor told that the condition of the injured Deepak is very critical and advised to admit him in a big hospital. In the same night, Deepak was admitted in PGIMS, Rohtak. On 11.06.2013, during the treatment, Deepak succumbed to the injuries. 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 FIR No. 354 was got registered on 11.06.2013 against respondent No.1 at Police Station Sadar Gurgaon under Sections 279, 304-A and 427 IPC, copy of charge-sheet dated 29.05.2014 (Exh.P16) and post mortem report (Exh.P7).

The deceased was 19 years of age at the time of accident and was bachelor. 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	5,000X12=Rs.60,000/- p.a.
(ii)	½ of (i) deducted as personal expenses of the deceased	60,000-30,000=Rs.30,000/-
(iii)	50% of (ii) added as future prospects	30,000+15,000=Rs.45,000/-
(iv)	Compensation after multiplier of 15 is applied	45,000X15=5,40,000/- (however the amount should have been Rs.6,75,000/- and the tribunal had made an error in calculation)
(v)	Loss of love and affection	Rs.50,000/-
(vi)	Last rites	Rs.25,000/-
(vii)	Medical treatment	Rs.31,225/-

	TOTAL COMPENSATION AWARDED	Rs.5,46,225/- ((however the amount should have been Rs.6,46,225/- and the tribunal had made an error in calculation)
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Hence, the claimants were found entitled to total compensation of Rs.5,46,225/- 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 19 years of age at the time of accident and was bachelor. Keeping in view the minimum wages prevalent in State of Haryana in the year 2013, the income of the deceased is taken as Rs.6,000/- p.m. and 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	6,000X12=Rs.72,000/- p.a.
(ii)	40% future prospects	72,000+28,800=1,00,800/-
(iii)	½ of (ii) deducted as personal expenses of the deceased	1,00,800-50,400=Rs.50,400/-
(iv)	Compensation after multiplier of 18 is applied	50,400X18=Rs.9,07,200/-
(v)	Funeral expenses	Rs.15,000/-

(vi)	Loss of estate	Rs.15,000/-
(vii)	Loss of <i>filial</i> consortium	Rs.80,000/- (Rs.40,000/- each to both the appellants)
	TOTAL COMPENSATION AWARDED	Rs.10,17,200/-
	ENHANCED AMOUNT OF COMPENSATION	10,17,200- 5,46,225=Rs.4,70,975/-

The enhanced amount of compensation of **Rs.4,70,975/-** 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

17.10.2019
Divyanshi

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