

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

**FAO No.2769 of 2016
Date of decision: 16.08.2019**

Neelam Bhalla and another

....Appellants

Versus

Mahinder Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: None.

RITU BAHRI J. (Oral)

Since liability to pay compensation is of respondent Nos.1 to 4 jointly and severally, at this stage, service upon respondent Nos.2 and 3 is dispensed with.

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Pathankot (hereinafter referred to as 'the Tribunal') vide award dated 17.11.2015, on account of death of Ankush Bhalla in a motor vehicular accident which took place on 17.07.2013. Appellants are parents of deceased Ankush Bhalla.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 17.07.2013, Ankush Bhalla (since deceased) had gone Dunera to see the husband of his mother's sister (masar) namely Varinder Kumar on a motorcycle bearing registration No. HP-38-B-3848. At about 3.30 P.M., he reached near Kala Pul (Dunera), a bus bearing No. PB-32-C-7574 being driven by Mohinder Singh-respondent

struck against the motorcycle of Ankush Bhalla, as a result of which, he (Ankush Bhalla) received multiple injuries. He was taken to Surishtha Memorial Hospital, Dunera, from where he was taken to Ravi Hospital, Pathankot. Thereafter, he was referred to DMC Hospital, Ludhiana. However, Ankush Bhalla succumbed to the injuries. With regard to the accident, FIR No.16 dated 01.08.2013, under Sections 279/304-A IPC was registered against respondent No.1. 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 offending vehicle by respondent No.1, as a result of which Ankush Bhalla has died and thus, returned finding on issue no.1 in favour of the claimants. This finding was rightly given on the basis of the deposition of Surinder Kumar Bhalla (CW-2). Further, the claimants have proved on record copy of FIR Ex.A23 and death certificate as Ex.A21.

Deceased-Ankush Bhalla was a student of B.Tech. In the absence of any documentary proof, the Tribunal has assessed monthly income of the deceased as Rs.6000/- per month i.e. Rs.72,000/- per annum. Out of this income, one-half (50%) amount was deducted towards personal expenses of the deceased. By doing so, remaining income came to Rs.36,000/- per annum. The deceased was 22 years of age at the time of accident/death. Multiplier of 13 was applied by the Tribunal keeping in view the age of his parents i.e. claimants. After applying the multiplier of 13, dependency of claimants (parents) came to Rs.4,68,000/- (36,000 x 13).

In addition to it, Rs.26,400/- were awarded on account of medical

expenses, Rs.1,00,000/- as loss of love and affection, Rs.5000/- as loss of estate and Rs.25,000/- towards funeral expenses. Hence, appellant-claimants were found entitled to total compensation of Rs.6,24,400/- along with interest @ 9% 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.

In the present case, multiplier of 13 has been wrongly applied by the Tribunal keeping in view the age of parents of deceased. Since the deceased was 22 years of age at the time of death/accident, multiplier of 18 should have been applied keeping in view the age of deceased itself. Further, the deceased was doing B.Tech. and this fact was not disputed by the Insurance Company by leading any evidence. Being a student of B.Tech., income of the deceased should have been taken as that of a skilled labourer. In the year 2013, minimum wages of skilled labourer was Rs.8956/- per month. Accordingly, the income of the 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 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 Co. Ltd. vs. Nanu Ram alias Chuhru Ram & Ors.**, 2018 (4) RCR (Civil) 333, as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.9000/- per month
(ii)	40% of (i) above to be added as future prospects	9000 + 3600 = Rs.12,600/-
(iii)	1/2 of (ii) above is deducted as personal expenses of the deceased	12,600 – 6300 = Rs.6300/-
(iv)	Compensation after multiplier of 18 is applied	Rs.6300/- x 12 x 18 = Rs.13,60,800/-
(v)	Compensation on account of loss of estate	Rs.15,000/-
(vi)	Loss of filial consortium to the parents (appellants)	Rs.80,000/- (Rs.40,000/- each)
(vii)	Funeral expenses	Rs.15,000/-
(viii)	TOTAL COMPENSATION AWARDED	Rs.14,70,800/-
(ix)	Enhanced amount of compensation	Rs.14,70,800 – 6,24,400 = Rs.8,46,400/-

The enhanced amount of compensation of **Rs.8,46,400/-** 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 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.

(RITU BAHRI)
JUDGE

16.08.2019
ajp

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