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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO NO.2894 OF 2016

Date of Decision: 14.10.2019

Pinki and others

.....Appellants

versus

Jai Kishan and others

.....Respondents

CORAM HON'BLE MS. JUSTICE RITU BAHRI

Present Mr.Ishan Singh Cooner, Advocate for the appellants.

RITU BAHRI, J (ORAL)

The claimants have come up in appeal against the award dated 24.03.2015 whereby compensation of ₹9,89,000/- has been awarded on account of death of Virender, who died in a road accident which took place on 11.02.2014.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 11.02.2014, Virender (since deceased) was going to Rohtak from Gohana by riding on a motor cycle bearing registration no. HR-10Q-5990, driven at a moderate speed, while adhering to the traffic rules. However, when he reached near Giri Raj Filling Station situated along Gohana Rohtak road, in the meantime, a truck bearing registration no. HR-69B-3992 (offending vehicle) being driven by respondent no.1 in a rash and negligent manner came from behind and struck against the motor cycle of the deceased, due to which he fell down on the road and sustained injuries on various parts of his body. After accident, the deceased was shifted to General Hospital, Gohana where doctors declared him dead. Postmortem on the dead

body of the deceased was conducted in General hospital, Gohana. On the statement of Satyawar son of Nafe Singh, FIR no.22 dated 12.02.2014 under Sections 279 and 304-A IPC was registered at Police Station, Baroda. Consequently, the claimants-appellants filed a Claim Petition before the Tribunal.

With respect to issue no.1 this finding has been given against respondent no.1 as after the accident FIR No.22 dated 12.02.2014, under Sections 279, 304-A IPC was registered at Police Station Baroda (Ex. P-1), Postmortem report is Ex. P-8, driver was challaned copy of which is Ex.P3 and he was charge sheeted, copy of which is Ex.P5. Compensation has been assessed as under:-

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had been caused on account of rash and negligent driving of offending vehicle i.e truck by its driver respondent no.1 Jai Kishan resulting into death of Virender and returned finding on issue no.1 in favour of the appellants-claimants and against the respondents.

As per Postmortem Report (Ex.P-8), the deceased was 32 years of age at the time of accident and as per appellant no.1 he was an agriculturist and earning ₹30,000/- by doing dairy farming. The Tribunal had assessed his notional income as ₹6000/-x12 =₹72,000/- per annum. The compensation was awarded as under:-

Sr.No.	Heads	Calculations (₹)
1	Income	6,000 p.m
2	1/4 th Personal expenses of the deceased	1,500
3	Dependency	6,000 – 1,500 = 4,500
4	Compensation after multiplier of 16	4,500 x 12 x 16 =

		8,64,000
5	Loss of consortium	1,00,000
6	Funeral expenses	25,000
7	Total compensation	9,89,000

Hence, the claimants were found entitled to total compensation of ₹9,89,000/- along with interest @ 7.5% per annum from the date of filing of the Claim Petition till realization. Respondents no.1 to 3 were held jointly and severally liable to pay the same, though the first charge was to remain with respondent no.3 Insurance Company. Feeling dissatisfied with the impugned award, the claimant-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. 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 Magma General Insurance Company Ltd. v. Nanu Ram @ Chuhru Ram and others, Civil Appeal No.9581 and National Insurance Company Ltd. v. Pranay Sethi and others, Special Leave Petition (Civil) No. 25590 of 2014 (decided on 31.10.2017) as under:-

Sr.No.	Heads	Calculations (₹)
1	Income	6,000 x 12 = 72,000/- p.a
2	40% of (i) above to be added as future prospects	72000+ 28,800 =1,00,800
3	1/4 th of (ii) above is deducted as personal expenses of the deceased	1,00,800 - 25,200/- = 75,600
4	Compensation after multiplier of 16 applied	75,600 x 16 = 12,09,600

5	Funeral expenses	15,000
6	Loss of estate	15,000
7	Loss of total consortium to claimants no.1 to 3	1,20,000 (40,000 x 3)
8	Total Compensation awarded	13,59,600
9	Enhanced amount of compensation	13,59,600 - 9,89,000 = 3,70,600

The enhanced amount of compensation of ₹3,70,600/- 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. 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 present appeal is allowed.

14.10.2019
mamta

(RITU BAHRI)
JUDGE

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