

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 3140 of 2016
Date of decision: 30.09.2019

Amriti Devi and others

...Appellants

V/s.

Prem Singh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Rajeev Dev Sharma, Advocate
for the appellants.

Mr. Navin Kapur, 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 10.09.2015 whereby they have been awarded compensation of Rs.4,40,000/- on account of death of Nasib Chand, who died in a road accident which took place on 06.07.2013.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 06.07.2013, deceased Nasib Chand was returning to his village from village Taragarh on his bicycle and he was on correct side of the road. When he reached near a vegetable shop, the offending Tipper came from Purana Taragarh side and it was driven at extremely high speed in rash and negligent manner by respondent No. 1. The respondent No. 1 dashed the offending vehicle in the bicycle of Nasib Chand and as a result, he fell down and was crushed under tyres of Tipper.

Nasib Chand died on the spot. 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 formal FIR was got registered at Police Station Taragarh (Ex.P2) and post mortem report (Ex.P1)

The deceased was 65 years of age as per the post mortem report (Ex.P1). The tribunal had assessed monthly income of the deceased as Rs.7,500/- p.m. and assessed the following compensation:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	7,500X12=Rs.90,000/- p.a.
(ii)	1/3 rd of (i) deducted as personal expenses of the deceased	90,000-30,000=Rs.60,000/-
(iii)	Compensation after multiplier of 7 is applied	60,000X7=Rs.4,20,000/-
(iv)	Loss of consortium for wife	Rs.5,000/-
(v)	Loss of love & affection for family	Rs.5,000/-
(vi)	Funeral expenses	Rs.5,000/-
(vii)	Loss of estate	Rs.5,000/-
	TOTAL COMPENSATION AWARDED	Rs.4,40,000/-

Hence, the claimants were found entitled to total compensation of Rs.4,40,000/- along with interest @ 9% 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.

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)	Income	7,500X12=Rs.90,000/- p.a.
(ii)	1/3 rd of (i) deducted as personal expenses of the deceased	90,000-30,000=Rs.60,000/-
(iii)	Compensation after multiplier of 7 is applied	60,000X7=Rs.4,20,000/-
(iv)	Loss of filial consortium for wife	Rs.2,00,000/- (Rs.40,000/- each to all the claimants)
(v)	Funeral expenses	Rs.15,000/-
(vi)	Loss of estate	Rs.15,000/-
	TOTAL COMPENSATION AWARDED	Rs.6,50,000/-
	ENHANCED AMOUNT OF COMPENSATION	6,50,000-4,40,000=Rs.2,10,000/-

A perusal of the award shows that while awarding compensation of Rs.4,40,000/-, Rs.2,40,000/- has been given to the widow and Rs.50,000/- each to three sons and daughter. Keeping in view that all the three sons are major, the widow is held entitled for Rs.3,50,000/- and daughter is held entitled for Rs.50,000/-. Out of the enhanced amount of compensation i.e. **Rs.2,10,000/-**, Rs.1,60,000/- will be given to all children (i.e.Rs.40,000/- each to three sons and daughter) and Rs. 50,000/- will be given to the widow and this enhanced amount i.e. Rs.2,10,000/- 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.

Accordingly, the award stands modified to the above extent and the appeal is allowed.

(RITU BAHRI)
JUDGE

30.09.2019
Divyanshi

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