

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

FAO-3463-2016

Date of Decision:02.09.2019

Balwinder Kaur

... Petitioner

Vs.

Rajesh Kumar and others

... Respondents

CORAM : HON'BLE MS. JUSTICE RITU BAHRI

Present : Mr. Vijay Lath, Advocate
for the appellant.

Mr. Pankaj Mehta, Advocate
for the respondents.

RITU BAHRI, J. (Oral)

The appellant has come in appeal before this Court seeking enhancement of compensation awarded the by Motor Accident Claims Tribunal, Rupnagar (hereinafter referred to as 'the Tribunal') vide award dated 02.12.2015 whereby he has been awarded a compensation of ₹ 11,85,000/- on account of death of her son in a motor vehicular accident which took place on 15.08.2014.

Facts not in dispute

Brief facts of the case are that on 15.08.2014, at about 9:30 P.M. Narinder Singh son of Gurdev Singh was going from BDPO Office to his village Sihon Majra via Khabra Chowk. He had seen Motor Cycle No.PB-65-G-5890 going ahead of him on which two young persons were travelling and when these two person reached near Salapur Chowk, the Motor Cycle turned on Morinda road and in the meantime an Eicher Canter No.HR-56-A-1570 in a rash and negligent manner hit the Motor Cycle. As a result of which, one of the person i.e. son of the appellant died on the spot and other was seriously injured.

The parties are not in dispute with regard to finding given by the

Tribunal in respect of issue No.1. The accident took place due to rash and negligent driving of respondent No.1. Consequently, Challan under Section 173 Cr.P.C was presented i.e. Ex.P4 and supplementary statement was made i.e. Ex.P5. FIR was registered i.e. Ex.P1.

Compensation assessed by the MACT

In view of the above facts and circumstances, the Tribunal awarded the compensation as under:

Particulars	Amount (in ₹)
Annual income of the deceased assessed	₹ 1,80,000/-
50% deduction towards personal expenditure	₹ 90,000/-
After applying multiplier of 13, the amount of compensation comes out to be	₹ 11,70,000/-
Compensation towards funeral and transportation	₹ 15,000/-
Total amount of compensation	₹ 11,85,000/-

As per the claimants, the deceased in the present case was 25 years old at the time of accident and was working as Supervisor in Parv Generator Sales and Services. Feeling dissatisfied with impugned award, Claimant-appellant has preferred present appeal.

Reassessed Compensation

The fact of accident is admitted and proved. It stands established that the deceased had 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. However, taking into account the age of the deceased at the time of accident as also in view of the judgment of the Supreme Court rendered in the case of **Magma General Insurance Co. Ltd.** v. **Nanu Ram alias Chuhru Ram**; 2018 (4) RCR Civil 837 and **National Insurance Company Ltd.** v. **Pranay Sethi and others, passed in Spl Leave Petition (Civil) No.255590 of 2014**, decided on 31.10.2017, the compensation as awarded by the Tribunal requires re-assessment which is as under:

Particulars	Amount (in ₹)
Income	₹ 10,000/-
40% (future prospects)	₹ 10,000/- + 4000/-= ₹ 14,000/-
Deduction 50%	₹ 7000/-
Multiplier of 18 is applied	₹ 7000/- x 12 x 18 = ₹ 15,12,000/-
Conventional heads (Loss of estate, funeral expenses, loss of consortium)	₹ 70,000/-
Enhanced amount of compensation	₹ 15,82,000 - ₹ 11,85,000 = ₹ 3,97,000/-

The enhanced amount of compensation of ₹ 3,97,000/- 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. Shyam Singh Verma 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.

02.09.2019
rajeev

(RITU BAHRI)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No