

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

**FAO No.4568 of 2015 (O&M)
Date of decision: 19.11.2019**

Neelam and others

....Appellants

Versus

Krishan Lal and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Arun Singal, Advocate,
for the appellants.

Mr. R.K. Bashamboo, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Panipat (hereinafter referred to as 'the Tribunal') vide award dated 10.02.2015 on account of death of Sant Ram in a motor vehicular accident which took place on 26.05.2012. Appellant No.1 is widow, appellant Nos. 2 & 3 are children and appellant Nos. 4 & 5 are parents of deceased Sant Ram.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 26.05.2012, at about 9.30 A.M., Sant Ram (since deceased) was going from his house towards Panipat on a motorcycle bearing No. HR-42-A-2905. His brother Sukhbir along

42-2654. At about 01.15 P.M., when they were crossing the Samalkha over-bridge, a truck bearing registration No.HR-46-C-0706 being driven by Krishan Lal-respondent No.1 in a rash and negligent manner, was going ahead of the motorcycle of Sant Ram and all of a sudden, its driver applied brakes, as a result of which, motorcycle of Sant Ram struck against the said truck and fell down near the office of BDPO, Samalkha. In this accident, Sant Ram received multiple serious and grievous injuries. Sant Ram was shifted to General Hospital, Panipat, where he was declared dead. With regard to the incident, an FIR No. 374 dated 26.05.2012, under Sections 279/304-A IPC was registered at Police Station, Samalkha. 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 the offending vehicle by its driver, which resulted into the death of Sant Ram. This finding was rightly given on the basis of deposition of Sukhbir Singh (PW-2), who was eye witness of the accident. Apart from this, claimants have also proved on record documents Ex.P1 to Ex.P6 and Mark-PA.

In the absence of any documentary proof, income of the deceased was assessed as Rs.8000/- per month (as per DC rate), out of which, one-fourth ($1/4^{\text{th}}$) amount was deducted towards his personal expenses. By doing so, remaining income of deceased came to Rs.6000/- per month. The deceased was 28 years of age at the time of death/accident. Accordingly, multiplier of 17 was applied. After applying the multiplier of 17, dependency of claimants came to Rs.12,24,000/- (6000/- x 12 x 17). In

addition to it, Rs.10,000/- were awarded on account of funeral expenses. Hence, the claimants were found entitled to total compensation of Rs.12,34,000/- along with interest @ 9% per annum from the date of filing of the petition till realization. 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. There is no dispute with respect to the finding 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 its driver. Keeping in view the minimum wages prevalent in the year 2012, income of the deceased, as a skilled labourer, is being assessed as Rs.6000/- per month. 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 Company Ltd. vs. Nanu Ram alias Chuhru Ram and others, Civil Appeal No.9581 of 2018, as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.6000/- per month
(ii)	40% of (i) above to be added as future prospects	6000 + 2400 = Rs.8400/-

(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	8400 – 2100 = Rs.6300/-
(iv)	Compensation after multiplier of 17 is applied	Rs.6300/- x 12 x 17 = Rs.12,85,200/-
(v)	Loss of estate	Rs.15,000/-
(vi)	Funeral expenses	Rs.15,000/-
(vii)	Loss of consortium to the widow i.e. appellant-claimant No.1	Rs.40,000/-
(viii)	Loss of filial consortium to children i.e. appellant Nos.2 and 3	Rs.80,000/- (Rs.40,000/- each)
(ix)	Loss of filial consortium to the parents i.e. appellant Nos.4 and 5	Rs.80,000/- (Rs.40,000/- each)
(x)	TOTAL COMPENSATION AWARDED	Rs.15,15,200/-
(xi)	Enhanced amount of compensation	Rs.15,15,200 – 12,34,000 = Rs.2,81,200/-

The enhanced amount of compensation of **Rs.2,81,200/-** 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 vs. Shyam Singh Varma and 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

19.11.2019
ajp

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