

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

**FAO No.3638 of 2016 (O&M)
Date of decision: 16.11.2019**

Smt. Rekha and others

....Appellants

Versus

Arvind and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ved Parkash, Advocate,
for the appellants.

Mr. Vishal Aggarwal, Advocate,
for respondent No.4-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, Sonipat (hereinafter referred to as 'the Tribunal') vide award dated 23.11.2015 on account of death of Ram Mehar in a motor vehicular accident which took place on 08.05.2014. Appellant No.1 is widow, appellant No. 2 is mother and appellant Nos. 3 & 4 are sons deceased Ram Mehar.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 08.05.2014, at about 7.15 A.M., Ram Mehar (since deceased) along with Ashok was coming from Smalkha to native place on a motorcycle bearing No.HR-10-F-1308. The said motorcycle was being driven by Ashok. When they reached opposite

Patti Kaliyan, in front of pond, G.T. Road, in the meantime, a Swift car bearing No. DL-4-CAM-4772 being driven by Arvind-respondent No.1 in a rash and negligent manner, came from behind and hit the motorcycle, as a result of which, both the occupants of motorcycle i.e. Ram Mehar and Ashok fell in the ditches. The offending vehicle also hit other vehicle i.e. Omini Van bearing No.DL-8-CNB-9719 being driven by a young man. After the accident, injured Ashok become unconscious. Unfortunately, Ram Mehar succumbed to the injuries received in the accident. With regard to the incident, an FIR No. 241 dated 08.05.2014, under Sections 279/337/304-A IPC was registered at Police Station, Samalkha, Panipat. 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 Ram Mehar. This finding was rightly given on the basis of deposition of Ashok Kumar (PW-8), who was eye witnesses of the accident. Apart from this, claimants have also proved on record copy of report under Section 173 Cr.P.C. Ex.P5, copy of FIR Ex.P6 and postmortem report as Ex.P7.

Deceased-Ram Mehar was employed as Security Guard in Nestle Company and used to draw net salary of Rs.6892/- per month, rounded off to Rs.6890/- per month. On the basis of evidence adduced by the claimants, income of the deceased was taken by the Tribunal as

(1/4th) amount was deducted towards his personal expenses. By doing so, remaining income of deceased came to Rs.62,010/- per annum. The deceased was 32 years of age at the time of death/accident. Multiplier of 16 was applied. After applying the multiplier of 16, dependency of claimants came to Rs.9,92,160/- (62,010/- x 16). In addition to it, Rs.25,000/- were awarded on account of funeral expenses, Rs.1,00,000/- on account of loss of consortium, Rs.1,00,000/- each to the minor children on account of loss of love and affection and Rs.1,00,000/- towards loss of estate. Hence, the claimants were found entitled to total compensation of Rs.14,17,160/- along with interest @ 7.5% 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. 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

Ram alias Chuhru Ram and others, Civil Appeal No.9581 of 2018, as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.6890/- per month
(ii)	40% of (i) above to be added as future prospects	6890 + 2756 = Rs.9646/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	9646 – 2411 = Rs.7235/-
(iv)	Compensation after multiplier of 16 is applied	Rs.7235/- x 12 x 16 = Rs.13,89,120/-
(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.3 and 4	Rs.80,000/- (Rs.40,000/- each)
(ix)	Loss of filial consortium to mother i.e. appellant No.2	Rs.40,000/-
(x)	TOTAL COMPENSATION AWARDED	Rs.15,79,120/-
(xi)	Enhanced amount of compensation	Rs.15,79,120 – 14,17,160 = Rs.1,61,960/-

The enhanced amount of compensation of **Rs.1,61,960/-** 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

16.11.2019
ajp

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