

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

F.A.O No. 6614 of 2014
Date of decision:- 28.11.2019

Shri Ram General Insurance Co. Ltd. ...Appellants

Versus

Harbans Kaur and others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Ram Pal Kohli, Advocate, for
Mr. Tajender Joshi, Advocate
for the appellant

Ms. Swati Batra, Advocate/legal aid counsel
for respondent No. 1 to 3

RITU BAHRI J. (Oral)

The present appeal has been filed by the Insurance Company challenging the award dated 16.04.2014 passed by learned Motor Accident Claims Tribunal, Patiala, whereby a total amount of Rs.5,77,752/- was awarded in favour of the claimants.

As per claimants on 13.02.2013 the deceased was travelling as a pillion rider on a scooter bearing No. PB-23-L-5949 being driven by respondent No. 1 Darshan Singh. The said scooter was being followed by scooter driven by Harjinder Singh. When the deceased reached near small canal (sua), said scooter bearing No. PB-23-L-5949 which was driven in a rash and negligent manner could not be controlled as one dog suddenly appeared on the road and the scooter fell down on the road. The deceased fell down on the road and taken to Rajendra Hospital, Patiala from where he was referred to GMCH, Sector 32 Chandigarh where he succumbed to his injuries.

While assessing compensation, the Tribunal took the income of

the deceased at Rs.5260/- per month. 15% was added as future prospects and cut of 1/3rd was imposed. The Tribunal applied the multiplier of 11. Rs.25,000/- were granted towards funeral expenses, Rs.10,000/- were granted towards loss of estate and Rs.10,000/- were granted towards loss of consortium. The total compensation awarded to the claimants was Rs.5,77,752/-.

At the very outset, learned counsel for the appellant contends that the 15% future prospects has wrongly been awarded. The claimants are entitled to 10% future prospects. It has further been argued that no F.I.R has been registered and thus, the Tribunal has wrongly held that the accident had occurred due to rash and negligent driving of the offending vehicle by Darshan Singh.

On the other hand, learned counsel for the claimants submits that the multiplier of 11 has wrongly been applied and further the income has been taken on the lower side by the Tribunal.

Heard learned counsel for the parties.

With regard to the factum of accident, P.W.2 Rajinder Kumar appeared in the witness box and stated that the accident took place on account of rash and negligent driving of Darshan Singh. It is not the case of the appellant-Insurance Company that this witness was the interested witness and hence even F.I.R has not been registered, the statement of this witness was sufficient enough to come to a conclusion that the accident took place on account of rash and negligent driving of Darshan Singh. The PMR of the deceased also revealed that he died due to the injuries sustained in the accident.

Further the learned Tribunal should have granted 10% future

prospects instead of 15 in view of judgment of Hon'ble the Supreme Court of India in a case of *National Insurance Company Ltd vs. Pranay Sethi and others, passed in Spl Leave Petition (Civil) No. 25590 of 2014, decided on October 31, 2017. The multiplier of 11 has rightly been applied.* However, mother and child are also entitled for compensation of Rs.40,000/- each under the head of loss of consortium, in view of judgment of Hon'ble the Supreme Court of India in a case of *Magma General Insurance Co. Ltd vs Nanu Ram Alias Chuhru Ram, 2018 (4) RCR Civil 837.*

In view of the discussion above, the claimants are entitled to compensation as per judgments mentioned above.

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Income	Rs.5260/- per month
(ii)	10% of (i) above to be added as future prospects=	Rs.5260+Rs.526=Rs.5786/- per month
(iii)	1/3 rd of (ii) deducted as personal expenses of the deceased=	Rs.5786-Rs.1928=Rs.3858/- per month
(iv)	Compensation after multiplier of 11 is applied	Rs.3858 X 12 X 11= Rs.05,09,256/-
(v)	Conventional heads (Loss of estate, consortium and funeral expenses)	Rs.70,000/-
(vi)	Loss of fillail consortium (mohter of the deceased)	Rs.40,000/-
(vii)	Loss of consortium (child)	Rs.40,000/-
	Total Compensation to be awarded now	Rs.06,59,256/-

Resultantly, the appeal is disposed of. Accordingly, the claimants are entitled to compensation of Rs.06,59,256/- which shall be payable within a period of forty five days from the date of receipt of certified copy of this order. The amount of compensation shall carry interest @ 9% per annum from the date of filing of the claim petition, till its realization, in view of judgment of Hon'ble the Apex Court in Civil Appeal

No. 4528-2019 titled as *Dara Singh @ Dhara Banjara vs. Shyam Singh Varma and ors, decided on 01.05.2019*. The remaining conditions of disbursal of amount and recovery rights shall remain unaltered.

Further it is hereby directed that the amount of Rs.25,000/- deposited by the appellant at the time of filing of appeal, in the Registry of this Court be returned.

28.11.2019

G Arora

Whether speaking/reasoned
Whether reportable

Yes
No

(RITU BAHRI)
JUDGE