

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.4453 of 2016 (O&M)

Date of Decision: 15.10.2019

National Insurance Company Limited

..Appellant

Vs.

Kuljeet Kaur and others

..Respondents

A N D

FAO No.2993 of 2016

Kuljeet Kaur and others

..Appellants

Vs.

Harjinder Singh and another

..Respondents

CORAM: HON'BLE MS.JUSTICE RITU BAHRI

Present: Mr.Ram Avtar, Advocate for the appellant(s).

Mr.Vikram Bali, Advocate for respondents No.1 to 5.

Mr. Vijay Lath, Advocate for respondent No.6.

RITU BAHRI, J.

CM No.15336-CII-2016

Delay of 111 days in filing the present appeal is condoned.

CM disposed of.

Main Case

This appeal has been filed by the Insurance Company against
the award of the Tribunal dated 27.11.2015 whereby claim petition of the

claimants was allowed and compensation has been awarded to the legal

representatives of Kuldeep Singh and Inderjit Singh, who died in accident on 10.11.2014 when motor-cycle bearing registration No.PB-32-M-6095 which came from Machhiwara side and was being driven by one Sukhwinder Singh s/o Sarup Singh in a rash and negligent manner and struck against Kuldeep Singh and Inderjit Singh and because of the accident, Kuldeep Singh died at the spot and Inderjit Singh succumbed to the injuries on the way to Hospital. This matter was reported to the police by respondent No.6 owner of Motorcycle No.PB-32-M-6095 and DDR No.17 dated 11.11.2014, P.S.Rahon, District SBS Nagar was registered on the statement of respondent No.6. Consequently, claimants of the deceased Kuldeep Singh filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal after perusing the DDR dated 11.11.2014 (Ex.P1) has returned a finding that driver and owner of the Pick up van warned the vehicles coming from behind and accident had been caused due to wrong judgment of Sukhwinder Singh s/o Sarup Singh, who also died in an accident. As per the DDR, the indicators of the van were in working condition and twigs and tee branches had been put behind the van. This proves that the driver and owner of the Van had taken all possible measures to warn the vehicles coming from behind. The Tribunal has further observed that Sukhwinder Singh was not the owner of the motor cycle and he had exchanged his motor cycle during the journey with different mechanism of brakes and in this background, Sukhwinder Singh at that particular juncture, caused the accident.

Feeling dissatisfied with the impugned award, the Insurance

Company as well as the claimants have preferred two separate appeals

before this Court.

Counsel for the Insurance Company has submitted that as per the version of the DDR, Pick up van was dragged on the *kacha* portion of the road and lights were on and there is no evidence led by the Insurance Company to prove that the pick up van attributed to the accident.

The finding on the issue No.1 has been rightly recorded in favour of the claimants keeping in view the version given in the DDR and the appeal filed by the Insurance Company is dismissed.

With regard to the appeal filed by the claimants for enhancement of compensation in FAO No.2993 of 2016, the Tribunal had assessed the income of the deceased Kuldeep Singh as ₹10,000/- per month and his annual income after deducting 1/4th amount was taken as ₹90,000/- per annum (₹7500x12) and after applying multiplier of 14, annual dependency of the claimant came to be ₹12,60,000/- (90,000x14), ₹1,00,000/- towards loss of consortium to wife, ₹1,00,000/- each towards loss of love and affection to minor daughter and son, Rs.50,000/- each towards loss of love and affection to father and mother and ₹25,000/- for funeral expenses were also awarded. Hence, the claimants were found entitled to total compensation of ₹16,85,000/- alongwith interest @ 7.5% per annum from the date of filing of petition till its realization.

REASSESSED COMPENSATION

The compensation requires to be reassessed in view of the judgments passed by Hon'ble the Supreme Court in ***Magma General Insurance Company Ltd. Versus 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), which is re-assessed as under:

Sr.No.	Heads	Calculations
(i)	Income	₹10000x12=1,20,000/-per annum
(ii)	25% of (i) above to be added as future prospects	₹30,000+1,20,000= ₹1,50,000/-
(iii)	After deduction of 1/4 th of (ii) towards personal expenses	1,50,000-37,500= 1,12,500
(iv)	After applying multiplier of 14	₹15,75,000/- (1,12,500x14)
(v)	Funeral expenses	₹25,000/-
(vi)	Loss of consortium to wife	₹1,00,000/-
(vii)	Loss of love and affection to children	₹2,00,000/- (₹1,00,000/- each to claimants No.2 & 3)
(viii)	Loss of love and affection to father and mother	₹1,00,000/- (₹50,000/- each to parents)
(xi)	Total Compensation awarded	₹20,00,000/-
(x)	Enhanced amount of compensation	₹20,00,000-₹16,85,000= ₹3,15,000/-

The enhanced amount of compensation of ₹3,15,000/- 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 the claim petition, till its realisation, in view of the judgment of Hon'ble the Supreme Court in the case of *Dara Singh @ Dhara Banjara Versus Shyam Singh Varma and others, Civil Appeal No.4528 of 2019*. Remaining conditions of disbursal of amount shall remain unaltered.

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

15.10.2019
Ajay/Meenu

(Ritu Bahri)
Judge

Whether speaking/reasoned

Whether Reportable

- Yes/No

- Yes/No