

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

FAO No.5625 of 2015 (O&M)

Date of decision: 16.08.2019

Shimla Rani and others

....Appellants

Versus

Karamjit Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: None.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Sirsa (hereinafter referred to as 'the Tribunal') vide award dated 16.07.2014, on account of death of Daljit Singh in a motor vehicular accident which took place on 20.08.2012. Appellant No.1 is widow and appellant Nos. 2 & 3 are children and appellant Nos.4 and 5 are parents of deceased-Daljit Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 20.08.2012, Daljit Singh (since deceased) was coming towards his house at Mandi Dabwali from village Sakta Khera on a motorcycle bearing registration No. HR-25-C-2090. One Amarjit Singh was also coming back to Dabwali from village Abubshahar on his motorcycle No.885. In the meantime, a truck bearing registration No. PB-03-N-9127 being driven by respondent No.1-Karamjit Singh in a rash and negligent manner, came from the side of Dabwali and

struck against the motorcycle of Daljit Singh, as a result of which, he (Daljit

Singh) received serious injuries. He was taken to CHC Dabwali, from where, he was referred to General Hospital, Sirsa. However, he succumbed to the injuries in the way. With regard to the accident, FIR No.169 dated 20.08.2012, under Sections 279/304-A/427 IPC was registered against respondent No.1 at Police Station, Sadar, Dabwali. 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 offending vehicle by respondent No.1, as a result of which Daljit Singh has died and thus, returned finding on issue no.1 in favour of the claimants. This finding was rightly given on the basis of the deposition of Amarjit Singh (PW-1), who was an eye witness of the accident and on whose statement, the FIR was registered. Further, the claimants have proved on record copy of report under Section 173 Cr.P.C. Ex.P1, site plan Ex.P2, superdari application Ex.P3, charge sheet Ex.P5 and copy of postmortem report as Ex.P6.

In the absence of any documentary evidence, income of the deceased was assessed by the Tribunal as Rs.5000/- per month as that of a labourer. In this income, 30% addition was made on account of future prospects, which came to Rs.6500/- per month. Out of this income, 1/3rd amount was deducted towards personal expenses of the deceased. By doing so, remaining income came to Rs.4330/- per month (Rs.6500 – 2170). As per postmortem report Ex.P6, deceased was 42 years of age at the time of accident/death. Accordingly, multiplier of 14 was applied by the Tribunal.

After applying the multiplier of 14, dependency of claimants Nos.1, 3 to 5

(widow, son and parents) came to Rs.7,27,440/- (4330 x 12 x 14). In addition to it, Rs.25,000/- were awarded as funeral expenses and Rs.25,000/- as loss of consortium to claimant No.1-widow. Hence, appellant-claimants were found entitled to total compensation of Rs.7,77,440/- along with interest @ 7½% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-appellant has 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. Parties are not in dispute with respect to the findings 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 respondent No.1. 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 Co. Ltd. vs. Nanu Ram alias Chuhru Ram & Ors., 2018 (4) RCR (Civil) 333, as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income (as per minimum wages)	Rs.6500/- per month
(ii)	25% of (i) above to be added as future prospects	6500 + 1625 = Rs.8125/-

(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	8125 – 2708 = Rs.5417/-
(iv)	Compensation after multiplier of 14 is applied	Rs.5417/- x 12 x 14 = Rs.9,10,056/-
(v)	Loss of consortium to widow-claimant No.1	Rs.40,000/-
(vi)	Loss of estate	Rs.15,000/-
(vii)	Loss of filial consortium to children i.e. claimant-appellant Nos. 2 & 3	Rs.80,000/- (Rs.40,000/- each)
(viii)	Loss of consortium to parents i.e. claimant Nos.4 and 5	Rs.80,000/- (Rs.40,000/- each)
(ix)	Funeral expenses	Rs.15,000/-
(x)	TOTAL COMPENSATION AWARDED	Rs.11,40,056/-
(xi)	Enhanced amount of compensation	Rs.11,40,056 – 7,77,440 = Rs.3,62,616/-

The enhanced amount of compensation of **Rs.3,62,616/-** 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 keeping in view the judgment passed by Hon'ble the Supreme Court in **Dara Singh @ Dhara Banjara vs. Shyam Singh Verma & 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

16.08.2019
ajp

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