

**220/2 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**FAO No. 4597 of 2016
Date of decision: 21.11.2019**

**Budh Ram(now deceased) through
his legal heirs**

...Appellants

V/s.

Harpreet Singh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Vishal Nehra, Advocate for the appellants.

Ms. Vandana Malhotra, Advocate for
respondent No. 3-insurance co.

RITU BAHRI, J. (Oral).

CM-15879-CII-2016

For the reasons recorded in the application, delay of 128 days in
filing the present appeal is condoned.

Application stands disposed of.

CM-15880-CII-2016

Application allowed as prayed for.

Main case

This appeal has been filed by the legal heir of Budh Ram, father of
deceased Manoj(who died during the pendency of the claim petition), against
the award of the Tribunal dated 07.09.2015 whereby the claimants have been
awarded compensation of Rs.3,50,000/- on account of death of their brother
Manoj who died in a road accident which took place on 28.04.2013.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 28.04.2013 deceased Vijay and Manoj along with Sahab Singh had gone to village Mudlana for taking contract of painting work on motor cycle bearing registration No. HR-11B-2242 being driven by Vijay at a moderate speed. Manoj and Sahab Singh were pillion riders. At around 11.00/11.15 a.m. they reached near Gau Shala of village Mundlana. The offending vehicle i.e. Dumper bearing registration No. HR-46C-8261 was going ahead of their motor cycle being driven by respondent No.1 without blinking indicator on back side. Respondent No.1 suddenly applied brakes as a result of which motor cycle struck against the back side of the offending vehicle. All the occupants of the motor cycle sustained injuries as a result of which Manoj and Vijay died at the spot. An FIR No. 85 dated 28.04.2013, under Sections 283, 337, 304-A IPC was registered with regard to the accident in question in Police Station Sadar, Gohana. was registered. Accident had occurred due to sole rash and negligent driving of respondent No.1. Consequently, the claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

The parties are not in dispute with respect to finding on issue No. 1 that the accident took place on account of rash and negligent driving of respondent No. 1. This finding has been rightly given in favour of the claimants keeping in view FIR (Ex.P2) and deposition of PW3 Sahab Singh, who was riding the pillion and had witnessed the accident.

The deceased was 25 years of age. The Tribunal had assessed monthly income of the deceased as Rs.5,000/- p.m. and assessed the following

compensation:-

Sr.No	HEADS	CALCULATIONS
1.	Income	Rs. 5,000/-
2.	½ of (1) deducted as personal expenses of the deceased	Rs. 5,000-Rs.2,500= Rs.2,500
3.	Future prospects added to the extent of 50%	Rs. 2,500 + Rs.1,250= Rs.3750
4.	Compensation after applying multiplier of 5	Rs.3750 x 12 x 5 = Rs.2,25,000
6.	Loss of love and affection and loss of estate	Rs. 1,00,000
7.	Funeral expenses	Rs. 25,000
	TOTAL COMPENSATION AWARDED	Rs. 3,50,000/-

Hence, the claimants were found entitled to total compensation of Rs.3,50,000/- along with interest @ 8% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimants-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. Finding of negligence has rightly been given by the Tribunal and it does not require any interference on that account.

The deceased was 25 years of age and the Tribunal had assessed his monthly income as Rs.5,000/- p.m. However, as per the minimum wages prevalent in State of Haryana in the year 2013 , the income of the deceased is taken as Rs.5,500/-p.m.

The insurance company is opposing the enhancement of compensation on the ground that the legal heir of Budh Ram who is the real

brother of the deceased was not dependent upon him. This argument is liable to be rejected as per the Motor Vehicles Act which says that the claim of legal heir is not to be rejected on the ground that he was not dependent on the income of the deceased. Thus, the compensation is hereby reassessed keeping in view the judgments passed by Hon'ble the Supreme Court in *Magma General Insurance Company Ltd. V/s. 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) as under:-

Sr.No	HEADS	CALCULATIONS
1.	Annual income	Rs. 5500 x 12= Rs.66,000
2.	40% increase as future prospects	Rs.66,000 + Rs.26,400 = Rs.92,400/-
3.	½ deductions for personal expenses	Rs.92,400-46,200= Rs.46,200
4.	Total loss of dependency after applying multiplier of 18	Rs.46,200 x 18 = Rs.8,31,600/-
5.	Funeral expenses	Rs. 15,000/-
6.	Loss of consortium	Rs. 15,000/-
7.	Loss of filial consortium	Rs. 1,60,000/-(Rs. 40,000/- each to the appellant as well as proforma respondents No. 4 to 6)
	TOTAL COMPENSATION AWARDED	Rs.10,21,600/-
	ENHANCED COMPENSATION	Rs. 10,21,600-Rs.350,000/= Rs.6,71,600/-

The enhanced amount of compensation of **Rs.6,71,600/-** shall be paid 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 V/s. Shyam Singh Varma and others*, Civil Appeal No. 4528 of 2019. Remaining conditions of disbursal of amount shall remain unaltered. Accordingly, the award stands modified to the above extent and the appeal is allowed.

(RITU BAHRI)
JUDGE

21.11.2019
sunita

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