

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

**FAO No.4882 of 2016
Date of decision: 15.10.2019**

Veena Gulati and others

....Appellants

Versus

Manjit Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. S.S. Sidhu, Advocate,
for the appellants.

Mr. Vishal Aggarwal, Advocate,
for respondent No.3-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, Rupnagar (hereinafter referred to as 'the Tribunal') vide award dated 10.03.2016 on account of death of Hans Raj Gulati in a motor vehicular accident which took place on 05.05.2015. Appellant No.1 is widow, appellant Nos. 2 & 3 are sons and appellant No.4 is daughter of deceased Hans Raj Gulati.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 05.05.2015, Hans Raj Gulati (since deceased) was going from Nurpur Bedi towards Nangal on a motorcycle No.PB-74-A-1444 and his son Arun Gulati was following him in a car No. PB-12-W-0762. When they reached near Petrol Pump, Village

Bhanupli on Anandpur Sahib-Nangal Road, in the meantime, a truck-tanker No. PB-12-N-3551 being driven by Manjit Singh-respondent No.1 in a rash and negligent manner, came from the side of Nangal and struck against the motorcycle of Hans Raj Gulati, as a result of which, he (Hans Raj Gulati) fell down, received multiple injuries and died at the spot. With regard to the incident, an FIR No. 63 dated 05.05.2015, under Sections 279/304-A/427 IPC was registered at Police Station, Anandpur Sahib, against respondent No.1. 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 Hans Raj Gulati. This finding was rightly given on the basis of deposition of Arun Gulati (PW-1), who was eye witnesses of the accident and on whose statement, FIR Ex.P1 was registered. Apart from this, claimants have also proved on record copy of postmortem report Ex.P2 etc.

On the basis of evidence adduced by the claimants, income of deceased Hans Raj Gulati was assessed by the Tribunal as Rs.12,000/- per month i.e. Rs.1,44,000/- per annum, out of which, one-third (1/3) amount was deducted towards his personal expenses. By doing so, remaining income of deceased came to Rs.96,000/- per annum. The deceased was 50 years of age at the time of death/accident. Multiplier of 13 was applied. After applying the multiplier of 13, dependency of claimants came to Rs.12,48,000/- (96,000 x 13). In addition to it, Rs.1,00,000/- were awarded to claimant No.1-widow on account of loss of consortium, Rs.10,000/- as

funeral expenses and Rs.5000/- for transportation. Hence, the claimants were found entitled to total compensation of Rs.13,63,000/- along with interest @ 6% 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 this case, income tax return of the deceased for the year 2014-15 was duly proved on record by Jaswant Singh Rana, Income Tax Inspector (PW-2) as Ex.PW2/D. As per this return, income of the deceased, from his business, was Rs.1,86,505/- per annum. Accordingly, this income is being taken for calculating the compensation to be awarded to the claimants. 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 Company Ltd. vs. Nanu Ram alias Chuhru Ram and others**, Civil Appeal No.9581 of 2018, as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.1,86,505/- per annum
(ii)	10% of (i) above to be added as future prospects	1,86,505 + 18,650 = Rs.2,05,155/-
(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	2,05,155 – 68,385 = Rs.1,36,770/-
(iv)	Compensation after multiplier of 13 is applied	Rs.1,36,770/- x 13 = Rs.17,78,010/-
(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.2, 3 and 4	Rs.1,20,000/- (Rs.40,000/- each)
(ix)	TOTAL COMPENSATION AWARDED	Rs.19,68,010/-
(x)	Enhanced amount of compensation	Rs.19,68,010 – 13,63,000 = Rs.6,05,010/-

The enhanced amount of compensation of **Rs.6,05,010/-** 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

15.10.2019

ajp