

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

**FAO No.6159 of 2015 (O&M)
Date of decision: 27.09.2019**

Bharat Singh and others

....Appellants

Versus

Sorabh Walia and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Anil Malik, Advocate,
for the appellants.

Mr. D.K. Prajapati, Advocate,
for respondent Nos.1 and 2.

Mr. Amit Kundra, 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, Kaithal (hereinafter referred to as 'the Tribunal') vide award dated 04.02.2015 on account of death of Khazani Devi in a motor vehicular accident which took place on 20.02.2014. Appellant No.1 is husband and appellant Nos.2 to 4 are children of deceased Khazani Devi.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 20.02.2014, after attending marriage of a relative, Gaurav (claimant No.4) along with his mother Khazani Devi (since deceased) was coming to their village Naina from

they reached at Karnal bye-pass Chowk, at Kaithal, Kuldeep son of Harkesh met them on a motorcycle No. HR-01-Y-9823. He (Kuldeep) was a little behind of their motorcycle. At about 3.45 P.M., when they reached on Karnal road, near Gamla Factory, a car bearing No. HR-08-N-2496, being driven by Sorabh Walia-respondent No.1 in a rash and negligent manner, came from the opposite side and struck against their motorcycle, as a result of which, Gaurav and Khazani Devi fell on the road and sustained multiple serious and grievous injuries. They were taken to Civil Hospital, Kaithal, where Khazani Devi succumbed to the injuries. With regard to the accident, FIR No.39 dated 20.02.2014, under Sections 279/337/304-A IPC was registered against respondent No.1 at Police Station, Civil Lines, Kaithal, on the statement of Gaurav. Consequently, the claimant-appellants filed a claim petition under Section 166 of the Motor Vehicle Act 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-respondent No.1 and thus, returned finding on issue No.1 in favour of the claimants. This finding was rightly given on the basis of deposition of Gaurav (PW-1), who was an eye witness of the accident and on whose statement, FIR Ex.PC was registered. Further, the claimants have also proved on record copy of postmortem report of deceased Ex.PA, report under Section 173 Cr.P.C. Ex.PB, FIR Ex.PC etc.

Deceased-Khazani Devi was a household ready. The Tribunal had assessed her income as Rs.5000/- per month. As per postmortem report Ex.PA, deceased was 40 years of age at the time of accident/death.

Multiplier of 15 was applied by the Tribunal. After applying the multiplier of 15, dependency of claimants came to Rs.9,00,000/- (5000 x 12 x 15). In addition to it, Rs.20,000/- were awarded as funeral expenses/transportation of dead body and Rs.75,000/- to claimant No.1-husband as loss of consortium. Hence, appellant-claimants were found entitled to total compensation of Rs.9,95,000/- along with interest @ 7.5% 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. 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.

At this stage, reference can be made to a judgment passed in **United India Insurance Company Limited vs. Sube Singh and others,** FAO-218-2014 (decided on 15.01.2014), wherein the Court was considering a case, where accident had taken place on 23.11.2012. In that accident, a housewife had died. She was 40 years old lady and the Co-ordinate Bench of this Court has observed that to tag a housewife as a 'skilled' worker alone does not do complete justice to her multifarious role as a home manager. It has further been observed that a housewife is something more than a mere skilled worker and it would not be unreasonable to estimate the contribution of the deceased at a higher figure. Being a housewife, her income had been

assessed at Rs.9000/- per month and no deduction was made in the income, so assessed.

In the facts of the present case, deceased-Khazani Devi was also a housewife. Therefore, following the ratio of judgment passed in Sube Singh's case (supra), income of deceased is being assessed as Rs.9000/- per month. Hence, in the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed in view of the law laid down 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), Magma General Insurance Co. Ltd. vs. Nanu Ram alias Chuhru Ram & Ors., 2018 (4) RCR (Civil) 333 and Sube Singh's case (supra), as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.9000/- per month
(ii)	Compensation after multiplier of 15 is applied	9000 x 12 x 15 = Rs.16,20,000/-
(iii)	Loss of consortium to the husband-claimant No.1	Rs.40,000/-
(iv)	Loss of filial consortium to the children-claimant Nos.2, 3 and 4.	Rs.1,20,000/- (Rs.40,000/- each)
(v)	Compensation on account of loss of estate	Rs.15,000/-
(vi)	Funeral expenses	Rs.15,000/-
(vii)	TOTAL COMPENSATION AWARDED	Rs.18,10,000/-
(viii)	Enhanced amount of compensation	Rs.18,10,000 – 9,95,000 = Rs.8,15,000/-

The enhanced amount of compensation of **Rs.8,15,000/-** 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 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

27.09.2019
ajp

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