

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

**FAO-7909-2014
Date of decision: 13.08.2019**

Usha and others**...Appellants**

V/s.

Rajesh Arora 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 Accidents Claim Tribunal, Sonapat (hereinafter referred to as 'the Tribunal') vide award dated 20.05.2014 on account of death of Ashok Kumar in a motor vehicular accident which took place on 23.09.2012. Appellant No. 1 is the wife of the deceased, appellants No. 2 to 4 are the children of the deceased whereas appellant No. 5 is the mother of the deceased.

FACTS NOT IN DISPUTE

Brief facts of the case are that Ashok Kumar had died in a road accident which took place on 23.09.2012. He alongwith his brother Rajesh alias Raju was returning from 20th mile stone where they had gone for purchasing of some articles for his shop. Both were on foot as the bicycle got punctured. Rajesh was some five ten paces behind his brother Ashok. When they reached in front of PWD rest house Rai, a car bearing no. DL 1CN-0178, being driven by its driver in a rash and negligent manner and at

a high speed came and struck Ashok Kumar from behind due to which he fell down and sustained serious and grievous injuries on his body. Soon after the accident, he was taken to Civil Hospital Sonapat from where he was referred to PGIMS, Rohtak instead of taking him to Rohtak, he was shifted to MAX Super Specialty Hospital Shalimar Bagh Delhi because of the serious injuries sustained by him and finally he died on 12.11.2012. Consequently, the claimant-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

A perusal of the award shows that finding on issue no. 1 has been rightly given in favour of the claimants as after registration of FIR No. 290 dated 23.09.2012, respondent No. 1 was challaned (Ex.P6/A) and chargesheeted (Ex.P6/B) keeping in view the judgment passed in *Radhey Shayam Versus Girdhari Lal 1993(2) P.L.R., 109.*

The claimants have also placed on record MLR of the deceased (Ex.PX&PY). The deceased was 40 years of age at the time of his death keeping in view the MLR and was running grocery shop in his village. However, the Tribunal had assessed his income as Rs.4,500/- per month and assessed compensation as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.4,500/- p.m.
(ii)	30% of (i) above to be added as future prospects	4,500+1,350=5,850
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	5,850-1,462=4,388X12=52,656 p.a.
(iv)	Compensation after multiplier of 15 applied	52,656X15=7,89,840/-
(v)	Funeral expenses	Rs.25,000/-
(vi)	Loss of estate	Rs.5,000/-
(vii)	Loss of Consortium	Rs.1,00,000/-
(viii)	Medical bills	Rs.14,55,000/-
(viii)	TOTAL COMPENSATION AWARDED	Rs.23,74,840/-

Hence, the claimants were found entitled to total compensation of Rs.23,74,840/- 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. Finding of negligence has rightly been given by the Tribunal and it does not require any interference on that account.

In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed keeping in view the minimum wages prevalent in State of Haryana in the year 2012 i.e. Rs.6,000/- p.m and in view of 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
(i)	Income	6,000/- p.m.
(ii)	40% of (i) above to be added as future prospects	6,000+2,400=8,400/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	8,400-2,100= 6,300X12=75,600
(iv)	Compensation after multiplier of 15 applied	75,600X15=11,34,000
(v)	Funeral expenses	Rs.15,000/-
(vi)	Loss of estate	Rs.15,000/-
(vii)	Medical bills	Rs.14,55,000/-
(viii)	Loss of Filial Consortium	Rs.2,00,000/- (Rs.40,000/- each to all the appellants)
(ix)	TOTAL COMPENSATION AWARDED	Rs. 28,19,000/-

(x)	ENHANCED AMOUNT OF COMPENSATION	Rs.28,19,000-23,74,840 = Rs.4,44,160/-
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The enhanced amount of compensation of **Rs.4,44,160/-** 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 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 present appeal is allowed.

(RITU BAHRI)
JUDGE

13.08.2019
Divyanshi

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