

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

FAO No.6405 of 2015 (O&M)

Date of decision: 07.08.2019

Smt. Lallo and others

....Appellants

Versus

Subodh alias Kallu 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, Mewat (hereinafter referred to as 'the Tribunal') vide award dated 13.04.2015, on account of death of Yunus alias Pappu in a motor vehicular accident which took place on 17.08.2012. Appellant No.1 is widow and appellant Nos. 2 & 3 are parents and appellant Nos.4 to 6 are daughters of deceased-Yunus alias Pappu.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 17.08.2012, Yunus alias Pappu (since deceased) was going to Angrawali Poultry Farm on a rickshaw. After reaching near Devi Gate, he was waiting for someone near the house of Bashir. In the meantime, a truck bearing registration No. UP-82/P-9516 being driven by respondent No.2-Nathu Singh in a rash and negligent manner, came and struck against Yunus alias Pappu, as a result of which, he (Yunus) received serious multiple injuries and died on the spot.

registered against respondent No.2 at Police Station, Punhana. 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.2, as a result of which Yunus @ Pappu 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 Hazi Aamin (PW-1), who was an eye witness of the accident. Further, the claimants have proved on record copy of report under Section 173 Cr.P.C. Ex.P3.

In the absence of any documentary evidence, income of the deceased was assessed by the Tribunal as Rs.5000/- per month i.e. Rs.60,000/- per annum, as that of an unskilled labourer. Out of this income, 1/4th amount was deducted towards personal expenses of the deceased. By doing so, remaining income came to Rs.45,000/- per annum (Rs.60,000 – 15,000). As per postmortem report Ex.P8, deceased was 27 years of age at the time of accident/death. Accordingly, multiplier of 17 was applied by the Tribunal. After applying the multiplier of 17, dependency of claimants (widow, daughters and parents) came to Rs.7,65,000/- (45,000 x 17). In addition to it, Rs.50,000/- were awarded as loss of consortium to claimant No.1-widow, loss of love and affection to claimant Nos.2 to 6 and Rs.25,000/- as funeral expenses. Hence, appellant-claimants were found entitled to total compensation of Rs.8,40,000/- 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-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.2. 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.6000/- per month
(ii)	40% of (i) above to be added as future prospects	6000 + 2400 = Rs.8400/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	8400 – 2100 = Rs.6300/-
(iv)	Compensation after multiplier of 17 is applied	Rs.6300/- x 12 x 17 = Rs.12,85,200/-
(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. 4 to 6	Rs.1,20,000/- (Rs.40,000/- each)
(viii)	Loss of consortium to parents i.e. claimant Nos.2 and 3	Rs.80,000/- (Rs.40,000/- each)
(ix)	Funeral expenses	Rs.15,000/-
(x)	TOTAL COMPENSATION AWARDED	Rs.15,55,200/-
(xi)	Enhanced amount of compensation	Rs.15,55,200 – 8,40,000 = Rs.7,15,200/-

The enhanced amount of compensation of **Rs.7,15,200/-** 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

07.08.2019
ajp

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