

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 5799 of 2016 (O&M)
Date of decision: 27.11.2019

Darshna and others

...Appellants

V/s.

Krishan Pal and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Surender Saini, Advocate
for the appellants.

Mr. Ashwani Talwar, Advocate with
Mr. Akash Sridhar, Advocate for
respondent No.3-insurance co.

RITU BAHRI, J. (Oral).

The appellants have come up in appeal against the award of the Tribunal dated 21.04.2016 whereby they have been awarded compensation of Rs.19,64,560/- on account of death of Anil, who died in a road accident which took place on 03.05.2015.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 03.05.2015 at about 1:30 p.m. deceased Anil was coming at his house after finishing his duty from TDI Kundli and when he was crossing the road from Nathupur cut, on GT road, in the meantime, a vehicle bearing registration No. HR-45B-6661 came from Delhi side driven by Krishan Pal-respondent No.1 in a rash and negligent manner and gave a hit to deceased Anil when deceased almost crossed the road. Due to this impact Anil fell down on the road towards his side in kacha portion and died at the spot due to injuries suffered by him.

The accident took place due to 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 negligent driving of the driver of the offending vehicle. This finding has been rightly given in favour of the claimants keeping in view FIR No. 194 dated 03.05.2015 under Sections 279 and 304-A IPC was registered against respondent No.1 on the statement of Pawan son of Deep Chand, the real brother of deceased Anil, who received information at about 2:15 a.m. regarding the accident and statement of eye witness i.e. Deepak son of Jagmender was also recorded by the police.

The deceased was 44 years of age at the time of accident as per post mortem report (Ex.P1). The Tribunal had considered monthly income of the deceased as Rs.11,200/- p.m. keeping in view the basic salary mentioned in salary certificate (Ex P8) for the month of April 2015 and assessed the following compensation:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.11,200/-p.m.
(ii)	30% of (i) added as future prospects	11,200+3,360=14,560/-
(iii)	1/4 th of (ii) deducted as personal expenses of the deceased	14,560-3,640=Rs.10,920/-
(iv)	Compensation after multiplier of 14 is applied	10,920X12X14=Rs.18,34,560/-
(v)	Loss of consortium	Rs.1,00,000/-
(vi)	Funeral expenses	Rs.25,000/-
(vii)	Loss of estate	Rs.5,000/-
	TOTAL COMPENSATION AWARDED	Rs.19,64,560/-

Hence, the claimants were found entitled to total compensation of Rs.19,64,560/- along with interest @ 7.5% 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.

Learned counsel for the appellants has argued that other allowances mentioned in salary slip could not have been deducted while calculating the compensation. A perusal of salary slip (Ex.P8) for the month of April 2015, from the record of the Tribunal shows the basic salary as Rs.11,200/-, conveyance as Rs.1,707/-, Supp/Adhoc allowance as Rs.6,576/-, education allowance as Rs.853/- and medical as Rs.2,222/-. The total earning comes to Rs.22,558/- and the net pay comes to Rs.21,214/-. The amount of conveyance i.e. Rs.1,707/- has to be deleted from the net pay to determine the salary which comes to Rs.19,507/-p.m.

Hence to meet the ends of justice, the compensation is hereby reassessed keeping in view the salary of the deceased as Rs.19,507/-p.m. and 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	Rs.19,507/-p.m.
(ii)	25% of (i) added as future prospects	19,507+4,877=Rs.24,384/-
(iii)	1/4 th of (ii) deducted as personal expenses of the deceased	24,384-6,096=Rs.18,288/-
(iv)	Compensation after multiplier of 14 is applied	18,288X12X14=Rs.30,72,384/-
(v)	Funeral expenses	Rs.15,000/-
(vi)	Loss of estate	Rs.15,000/-
(vii)	Loss of <i>filial</i> consortium	Rs.2,00,000/- (Rs.40,000/- each to all the appellants)
	TOTAL COMPENSATION AWARDED	Rs.33,02,384/-
	ENHANCED AMOUNT OF COMPENSATION	33,02,384- 19,64,560=Rs.13,37,824/-

The enhanced amount of compensation of **Rs.13,37,824/-** 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 appeal is allowed. Pending application also stands disposed of.

(RITU BAHRI)
JUDGE

27.11.2019
Divyanshi

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