

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

**FAO No.714 of 2015 (O&M)
Date of decision: 27.08.2019**

Smt. Salochna Devi and others

....Appellants

Versus

Harpal Singh and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: None for the appellants.

Mr. R.K. Bashamboo Advocate,
for respondent No.2-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, Ambala (hereinafter referred to as 'the Tribunal') vide award dated 21.10.2014 on account of death of Shri Ram in a motor vehicular accident which took place on 25.07.2013. Appellants No.1 is widow and appellant Nos. 2 to 5 are children of deceased Shri Ram.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 25.07.2013, Shri Ram (since deceased) was going from Pathankot to Delhi in a truck bearing registration No.HR-37-C-2107. The said truck was being driven by Jitender Singh son of Bahadur Singh. At about 8.30 P.M., after reaching near bus-stop of village Cholang, within the area of Tehsil Dasuya, District Hoshiarpur, they stopped their truck on extreme left hand side on *kacha* berm of the road.

Isham @ Bishna son of Ram Rattan and Nawab Ali son of Nardeek Ali driver/owner of other trucks also stopped their respective vehicles/trucks near their truck. All of them sit on the *kacha* berm of Pathaknot-Jalandhar G.T.Road. In the meantime, an Indica car (red coloured) bearing registration No.PB-10-BF-9665, being driven by Harpal Singh-respondent No.1 in a rash and negligent manner, came from the side of Dasuya and hit Shri Ram and other persons, as a result of which, Shri Ram fell on the road and received multiple simple and grievous injuries. The injured, including Shri Ram, were shifted to Civil Hospital, Tanda, District Hoshiarpur. Unfortunately, Shri Ram died on the way to hospital. With regard to the incident, FIR No. 186 dated 26.07.2013, under Sections 279/337/304-A IPC was registered against respondent No.1 at Police Station, Tanda, District Hoshiarpur on the statement of Ishma @ Bishma. 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 Shri Ram. This finding was rightly given on the basis of deposition of Nawab Ali (PW-2), who was eye witnesses of the accident. Apart from this, claimants have also proved on record postmortem report of deceased as Ex.P9.

The deceased was owner of a truck. On the basis of evidence adduced by the claimants, income of the deceased was assessed as Rs.16,000/- per month, out of which, one-fourth amount was deducted towards his personal expenses. By doing so, the total income of deceased

came to Rs.12,000/- per month i.e. Rs.1,44,000/- per annum. As per postmortem report, deceased was 50 years of age at the time of death/accident. Accordingly, multiplier of 13 was applied. After applying the multiplier of 13, dependency of claimants came to Rs.18,72,000/- (1,44,000/- x 13). In addition to it, Rs.25,000/- were awarded on account of loss of consortium and Rs.10,000/- for last rites etc. Hence, the claimants were found entitled to total compensation of Rs.19,07,000/- along with interest @ 9% 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. 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.16,000/- per month
(ii)	10% of (i) above to be added as future prospects	16,000 + 1600 = Rs.17,600/-

(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	17,600 – 4400 = Rs.13,200/-
(iv)	Compensation after multiplier of 13 is applied	Rs.13,200/- x 12 x 13 = Rs.20,59,200/-
(v)	Loss of estate	Rs.15,000/-
(vi)	Funeral expenses	Rs.15,000/-
(vii)	Loss of filial consortium to the appellants (claimant Nos.1 to 5).	Rs.2,00,000/- (Rs.40,000/- each)
(viii)	TOTAL COMPENSATION AWARDED	Rs.22,89,200/-
(ix)	Enhanced amount of compensation	Rs.22,89,200 – 19,07,000 = Rs.3,82,200/-

The enhanced amount of compensation of **Rs.3,82,200/-** 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, 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

27.08.2019
ajp

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