

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

**FAO No.7323 of 2015 (O&M)
Date of decision: 23.10.2019**

Giano Devi and another

....Appellants

Versus

Bedi Ram and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Neeraj Khanna, Advocate,
for the appellants.

Ms. Vandana Malhotra, Advocate,
for respondent No3-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 22.04.2015 on account of death of Sohan Lal @ Sonu in a motor vehicular accident which took place on 18.03.2014. Appellants are parents of deceased Sohan Lal @ Sonu.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 18.03.2014, Sohan Lal @ Sonu (since deceased) was going from village Patrehri, Tehsil Naraingarh to village Rattangarh, Tehsil Shahbad on a motorcycle bearing registration No. HR-04-C-1777. At about 2.15 P.M., when he reached near bus-stop, village

Maggharpura on Shahzadpur to Shahbad Road, a truck bearing registration No. GJ-6-YY-7553 being driven by Bedi Ram-respondent No.1 in a rash and negligent manner, came from the opposite side and struck against the motorcycle, as a result of which, the motorcycle got entangled with the offending truck and was dragged upto the distance of about 40 yards. Due to this accident, Sohan Lal @ Sonu received injuries and died at the spot. The said accident was witnessed by Sh. Kimti Lal. With regard to the incident, FIR No.36 dated 18.03.2014, under Sections 279/304-A IPC was registered at Police Station, Shahzadpur against respondent No.1. 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 Sohan Lal @ Sonu. This finding was rightly given on the basis of deposition of Kimti Lal (PW-2), who was eye witnesses of the accident and on whose statement, FIR Ex.P1 was registered. Apart from this, claimants have also proved on record copy of postmortem report of deceased as Ex.P2.

Deceased was a mason by profession. However, in the absence of any documentary evidence, the Tribunal has assessed the income of deceased as Rs.6000/- per month as that of skilled worker, out of which, one-half (50%) amount was deducted towards his personal expenses. By doing so, the total income of deceased came to Rs.3000/- per month i.e. Rs.36,000/- per annum. The deceased was 20 years of age at the time of

death/accident. However, multiplier of 13 was applied by the Tribunal keeping in view the age of his mother. After applying the multiplier of 13, dependency of claimants came to Rs.4,68,000/- (36,000/- x 13). In addition to it, Rs.20,000/- were awarded on account of funeral expenses. Hence, the claimants were found entitled to total compensation of Rs.4,88,000/- 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. There is no dispute with regard to the finding 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 its driver. 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.6000/- per month

(ii)	40% of (i) above to be added as future prospects	$6000 + 2400 = \text{Rs.}8400/-$
(iii)	50% of (ii) above is deducted as personal expenses of the deceased	$8400 - 4200 = \text{Rs.}4200/-$
(iv)	Compensation after multiplier of 18 is applied	$\text{Rs.}4200/- \times 12 \times 18 = \text{Rs.}9,07,200/-$
(v)	Loss of estate	$\text{Rs.}15,000/-$
(vi)	Funeral expenses	$\text{Rs.}15,000/-$
(vii)	Loss of filial consortium to the parents (appellants)	$\text{Rs.}80,000/-$ (Rs.40,000/- each)
(viii)	TOTAL COMPENSATION AWARDED	Rs.10,17,200/-
(ix)	Enhanced amount of compensation	Rs.10,17,200 – 4,88,000 = Rs.5,29,200/-

The enhanced amount of compensation of **Rs.5,29,200/-** 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

23.10.2019
ajp

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