

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

**FAO No.9247 of 2014 (O&M)
Date of decision: 16.11.2019**

Rani Kaur and others

....Appellants

Versus

Jarnail Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Vishwajit Bedi, Advocate,
for the appellants.

Mr. V. Ramswaroop, Advocate,
for respondent No.3-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, Patiala (hereinafter referred to as 'the Tribunal') vide award dated 02.09.2014 on account of death of Ajaib Singh in a motor vehicular accident which took place on 14.09.2013. Appellant No.1 is widow, appellant Nos.2 to 5 are children and appellant No.6 is father of deceased Ajaib Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 14.09.2013, Ajaib Singh (since deceased) was going from the side of Khanouri towards village Gulzarpura Tharua on a motorcycle bearing Engine No.32795, Chassis No.52683, which was owned by Gurcharan Singh. When he reached near

BA-7899, being driven by Jarnail Singh-respondent No.1 in a rash and negligent manner, came from the side of Khanouri and struck against the motorcycle, as a result of which, Ajaib Singh received multiple injuries and died. The accident was witnessed by Vakil Ram and Suba Singh. With regard to the accident, FIR No.257 dated 15.09.2013 was registered against respondent No.1 at Police Station, Patran. 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 Ajaib Singh. This finding was rightly given on the basis of deposition of Suba Singh (PW-3), who was eye witnesses of the accident. Apart from this, claimants have also proved on record copy of FIR Ex.P6 and documents Ex.P7 to Ex.P10.

In the absence of any documentary proof, income of the deceased was assessed as Rs.5000/- per month. In this income, 50% addition was made on account of future prospects. Accordingly, total income of deceased came to Rs.7500/- per month, out of which, one-fourth (1/4th) amount was deducted towards his personal expenses. The deceased was 35 years of age at the time of death/accident. Accordingly, multiplier of 16 was applied. After applying the multiplier of 16, dependency of claimants came to Rs.10,80,000/- (7500 x 12 x 3/4 x 16). In addition to it, Rs.25,000/- were awarded on account of funeral expenses, Rs.1,00,000/- towards loss of love and affection, Rs.1,00,000/- to claimant No.1-widow as loss of consortium. Hence, the claimants were found entitled to total

compensation of Rs.13,05,000/- 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 facts of the present case, keeping in view the minimum wages prevalent at that time, income of the deceased is being assessed as Rs.6500/- per month. 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.6500/- per month
(ii)	40% of (i) above to be added as future prospects	6500 + 2600 = Rs.9100/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	9100 – 2275 = Rs.6825/-
(iv)	Compensation after multiplier of 16 is applied	Rs.6825/- x 12 x 16 = Rs.13,10,400/-
(v)	Loss of estate	Rs.15,000/-
(vi)	Funeral expenses	Rs.15,000/-
(vii)	Loss of consortium to widow-appellant No.1.	Rs.40,000/-

(viii)	Loss of filial consortium to the children-appellant Nos.2 to 5.	Rs.1,60,000/- (Rs.40,000/- each)
(ix)	Loss of filial consortium to the father-appellant No.6.	Rs.40,000/-
(x)	TOTAL COMPENSATION AWARDED	Rs.15,80,400/-
(xi)	Enhanced amount of compensation	Rs.15,80,400 – 13,05,000 = Rs.2,75,400/-

The enhanced amount of compensation of **Rs.2,75,400/-** 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

16.11.2019
ajp

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