

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

FAO No.7686 of 2015 (O&M)

Date of decision: 24.09.2019

Sant Singh and others

....Appellants

Versus

Balwinder Pal Singh and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Ms. Ekta Thakur, Advocate,
for the appellants.

Mr. R.N. Singal, 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, Chandigarh (hereinafter referred to as 'the Tribunal') vide award dated 09.07.2015, on account of death of Amrik Kaur in a motor vehicular accident which took place on 08.04.2014. Appellant No.1 is husband, appellant Nos.2 to 4 are step-sons and respondent No.1 is the real son of deceased Amrik Kaur.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 08.04.2014, deceased Amrik Kaur was coming from Fatehgarh to Mohali in a car bearing No.PB-65-R-1819, which was being driven by Balwinder Pal Singh-respondent No.1. At about 3.50 P.M., when they reached at village Badali Ala Singh, suddenly a stray cow came in front of the car and in order to save the cow, respondent

developed in the car and it hit the tree. In this accident, Amrik Kaur, who was sitting on the back seat, suffered multiple injuries on her body, which proved fatal for her. Consequently, the claimant-appellants filed a claim petition under Section 163-A of the Motor Vehicle Act 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 usage of car No.PB-65-R-1819 by respondent No.1, as a result of which Amrik Kaur 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 Purshotam Singh (PW-1). Further, the claimants have proved on record DDR Ex.P1 and postmortem report Ex.P2.

Deceased-Amrik Kaur was a household lady. The Tribunal had assessed notional income of deceased as Rs.15,000/- per annum as Schedule-II of the Act. The deceased was 62 years of age at the time of accident/death. Accordingly, multiplier of 07 was applied by the Tribunal. After applying the multiplier of 07, dependency of claimants came to Rs.1,05,000/- (15,000 x 07). In addition to it, Rs.5000/- were awarded to claimant No.1-husband as loss of consortium, Rs.2000/- as funeral expenses and Rs.2500/- as loss of estate. Hence, appellant-claimant No.1 and Balwinder Pal Singh-respondent No.1 were found entitled to total compensation of Rs.1,14,500/- along with interest @ 7.5% per annum from the date of filing of the petition till realization. The Tribunal has further observed that since claimant Nos.2 to 4 have not born from the womb of the deceased, they were not her legal representatives. Therefore, claimant Nos.2 to 4 were not held entitled to get compensation. Only Sant Singh-

claimant No.1 being husband and Balwinder Pal Singh-respondent No.1 being real son of the deceased, were held entitled to receive the amount of compensation. 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. 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 usage of car bearing No.PB-65-R-1819 by respondent No.1. In the facts of the present case, deceased-Amrik Kaur was a housewife. Therefore, her income is being assessed as Rs.40,000/- per annum. Hence, in the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed as per Second Schedule of the Act, as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.40,000/- per month
(ii)	Compensation after multiplier of 07 is applied	40,000 x 07 = Rs.2,80,000/-
(iii)	Compensation under the conventional head (as per Second Schedule)	Rs.9500/-
(iv)	TOTAL COMPENSATION AWARDED	Rs.2,89,500/-
(v)	Enhanced amount of compensation	Rs.2,89,500 – 1,14,500 = Rs.1,75,000/-

The enhanced amount of compensation of **Rs.1,75,000/-** 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

24.09.2019
ajp

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