

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

**FAO No. 6685 of 2016
Date of decision: 27.11.2019**

Parveen Kumar (since deceased) through his LRs ...Appellant

V/s.

Naresh Kumar and others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Ms. Stuti Goel, Advocate for
 Mr. Akshay Kumar Jindal, Advocate
 for the appellants.

 Mr. Amit Kumar Goyal, Advocate for
 respondent No.3-insurance co.

RITU BAHRI, J. (Oral).

The appellant has since died. His LRs have come up in appeal against the award of the Tribunal dated 16.05.2016 whereby they have been awarded compensation of Rs.15,70,068/- on account of death of Parveen Kumar, who died in a road accident which took place on 09.10.2013 after receiving injuries.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 09.10.2013, Parveen was going to village Bhodwal Majri on a motorcyle bearing registration No. HR-60B-0636 and at that time his brother Vikas was also going on a separate motorcycle. Parveen was ahead to his brother Vikas. At about 1:00 p.m., when they reached near village Patti Kalyana, G.T.Road, a car bearing registration No.HR-10M-4242 came from their back side and the driver of the said car was driving it in a rash and negligent manner and at a very high

speed and he directly hit his car against the motorcycle of Parveen from back side. As a result of this impact, Parveen fell down on the road and sustained multiple and grievous injuries on his person. Injured Parveen was shifted to hospital at Samalkha and then to Prem Hospital, Panipat. The accident took place due to rash and negligent driving of respondent No.1. However, during the pendency of the claim petition, Parveen died on 08.05.2015 due to the injuries sustained by him. Consequently, the LRs of Parveen continued claim petition filed by him 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. 534 dated 12.10.2013 (Ex.PX) under Sections 279, 337 and 338 IPC was registered against respondent No.1 at police station Samalkha, Panipat on the statement of Vikas son of Pale Ram, copy of report under Section 173 Cr.P.C. (Ex.PW3/A) and copy of site plan (Ex.PW3/B).

The deceased was 35 years of age at the time of accident. The Tribunal had considered monthly income of the deceased as Rs.6,290/-p.m. keeping in view the income of the skilled labourer and assessed the following compensation:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.6,290/-p.m.
(ii)	1/4 th of (ii) deducted as personal expenses of the deceased	6,290-1,573=Rs.4,717/-
(iii)	Compensation after multiplier of 16 is applied	4,717X12X16=Rs.9,05,664/-
(iv)	Loss of consortium	Rs.50,000/-
(v)	Last rites	Rs.25,000/-
(vi)	Transportation	Rs.10,000/-

(vii)	Loss of love and affection	Rs.50,000/-
(viii)	Medical bills	Rs.5,29,404/-
	TOTAL COMPENSATION AWARDED	Rs.15,70,068/-

Hence, the claimants were found entitled to total compensation of Rs.15,70,068/- along with interest @ 9% 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.

Learned counsel for the appellants has argued that as per the deposition of PW-1 Dr. Neelesh Tiwari, Medical Officer, World Brain Centre, New Delhi, and PW-4, Dr. Sanjay Aggarwal, Parveen was having severe head injury. PW-7 Dr. Pardeep Kumar, Medical Officer, General Hospital, Panipat has proved on record disability certificate (Ex.P77), which shows that Parveen Kumar was having 100% permanent disability on account of head injury to whole body. Further, as per the post mortem report (Ex.P-97), the cause of death is cardio-respiratory arrest with post traumatic changes due to head injury with diffuse ureterall and cerebellar atrophy with septicaemia. She has submitted that no benefit of future prospects was awarded by the tribunal. She has further submitted that after the accident till death, treatment of Parveen Kumar was going on and he had spent huge amount on transportation, diet and attendant. However, the Tribunal has not awarded compensation under the heads of future prospects, transportation, diet and attendant.

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.

A perusal of the award shows that the income of the deceased has rightly been taken as Rs.6,290/- per month. Hence to meet the ends of justice, the compensation is hereby reassessed keeping in view 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.6,290/-p.m.
(ii)	40% of (i) added as future prospects	6,290+2,516=Rs.8,806/-
(iii)	1/4 th of (ii) deducted as personal expenses of the deceased	8,806-2,202=Rs.6,604/-
(iv)	Compensation after multiplier of 16 is applied	6,604X12X16=Rs.12,67,968/-
(v)	Transportation, special diet and attendant	Rs.30,000/-
(vi)	Medical bills	Rs.5,29,404/-
(vii)	Funeral expenses	Rs.15,000/-
(viii)	Loss of estate	Rs.15,000/-
(vii)	Loss of <i>filial</i> consortium	Rs.2,40,000/- (Rs.40,000/- each to all the appellants)
	TOTAL COMPENSATION AWARDED	Rs.20,97,372/-
	ENHANCED AMOUNT OF COMPENSATION	20,97,372- 15,70,068=Rs.5,27,304/-

The enhanced amount of compensation of **Rs.5,27,304/-** 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.

(RITU BAHRI)
JUDGE

27.11.2019
Divyanshi

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