

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

**FAO No.7745 of 2015 (O&M)
Date of decision: 22.10.2019**

Smt. Mukesh Devi and others

....Appellants

Versus

Rajesh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Aditya Yadav, Advocate,
for the appellants.

Ms. Vandana Malhotra, 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, Rewari (hereinafter referred to as 'the Tribunal') vide award dated 10.08.2015 on account of death of Sudhir Singh in a motor vehicular accident which took place on 12.07.2014. Appellant No.1 is widow and appellant Nos. 2 &3 are children of deceased Sudhir Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 12.07.2014, at about 8.00 A.M., Sudhir Singh (since deceased) along with his uncle Bane Singh was going to village Dhawana on a motorcycle bearing registration No.HR-36-N-5046 for purchasing a buffalo. The said motorcycle was being driven by

Sudhir Singh. Anil Kumar, elder brother of Sudhir Singh, was following

them on a separate motorcycle. At about 9.00 A.M., when they reached near Raghav Service Station, a Trailer bearing registration No. HR-46-B-6954 being driven by Rajesh-respondent No.1 in a rash and negligent manner, came and struck against the motorcycle of Sudhir Singh, as a result of which, Sudhir Singh and Bane Singh fell on the road. However, Sudhir Singh was crushed under the offending vehicle. He was taken to General Hospital, Rewari, where the doctors declared him brought dead. Bane Singh was taken to Birendra Hospital, Rewari, but he also succumbed to the injuries. With regard to the incident, FIR No. 148 dated 12.07.2014 was registered against respondent No.1 at Police Station, Khol. 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 Sudhir Singh. This finding was rightly given on the basis of deposition of Anil Kumar (PW-5), who was eye witnesses of the accident. Apart from this, claimants have also proved on record copy of FIR Ex.P3 and postmortem report of deceased Ex.PW6/A

The deceased was employed as Head Constable in Indo Tibetan Border Police (ITBP). On the basis of evidence adduced by the claimants, income of the deceased was assessed as Rs.15,490/- per month, out of which, one-third amount was deducted towards his personal expenses. By doing so, the total income of deceased came to Rs.10,327/- per month i.e. Rs.1,23,924/- per annum. As per postmortem report, deceased was 38 years of age at the time of death/accident. Accordingly, multiplier of 15 was

applied. After applying the multiplier of 15, dependency of claimants came to Rs.18,58,860/- (1,23,924/- x 15). In addition to it, Rs.25,000/- were awarded on account of funeral expenses, Rs.5000/- towards loss of estate and Rs.1,00,000/- to claimant No.1-widow towards loss of consortium. Hence, the claimants were found entitled to total compensation of Rs.19,88,860/- along with interest @ 6% 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. Parties are not in dispute 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.15,490/-, rounded off Rs.15,500/- per month

(ii)	50% of (i) above to be added as future prospects	15,500 + 7750 = Rs.23,250/-
(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	23,250 – 7750 = Rs.15,500/-
(iv)	Compensation after multiplier of 15 is applied	Rs.15,500/- x 12 x 15 = Rs.27,90,000/-
(v)	Loss of estate	Rs.15,000/-
(vi)	Funeral expenses	Rs.15,000/-
(vii)	Loss of consortium to appellant No.1- widow	Rs.40,000/-
(viii)	Loss of filial consortium to the children-appellant Nos.2 and 3 (claimant Nos.2 to 3).	Rs.80,000/- (Rs.40,000/- each)
(ix)	TOTAL COMPENSATION AWARDED	Rs.29,40,000/-
(x)	Enhanced amount of compensation	Rs.29,40,000 – 19,88,860 = Rs.9,51,140/-

The enhanced amount of compensation of **Rs.9,51,140/-** 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

22.10.2019
ajp

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