

Diwan Singh and another **V/s.** **...Appellants**

brought dead and Ankit was referred to higher centre and he was taken to Aditya Spine Specialty Hospital Rewari where he was medically operated upon at head but due to serious injuries he was taken to Medanta Hospital, Gurgaon wherefrom he was shifted to Paras Hospital, Gurgaon for check-up on 19.11.2014 and was then taken to Medanta Hospital, Gurgaon on 20.11.2014. He was again sent to Aditya Spine Specialty Hospital Rewari where he succumbed to his injuries on 21.11.2014. Consequently, the claimants-appellants filed a claim petition 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 by Randhir Singh-respondent No. 1, the driver of the offending vehicle. This finding has been rightly given in favour of the claimants keeping in view that FIR No.140 dated 16.11.2014 (Ex.P1) was registered immediately after the accident and challan (Ex.P2) was presented against the driver/respondent No. 1. As per the post mortem report of the deceased, the cause of the death was due to injuries sustained by him.

The deceased was 14 years of age at the time of accident. The Tribunal had assessed his notional income as Rs.15,000/- per annum. The Tribunal had assessed compensation as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Annual Income	15,000/-
(ii)	Compensation after multiplier of 16 applied keeping in view age of parents	15,000X16=Rs.2,40,000/-
(iii)	Funeral expenses	Rs.20,000/-
(iv)	Treatment prior to death	Rs.1,36,260/-
(v)	TOTAL COMPENSATION AWARDED	Rs. 3,96,260/-

Hence, the claimants were found entitled to total compensation of Rs.3,96,260/- along with interest @ 6% 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.

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.

The compensation has been assessed by taking the notional income of the deceased as Rs.15,000/- p.a. The deceased was 14 years of age. The accident in the present case has taken place in the year 2014. Reference can be made to a judgment passed by Supreme Court in ***Kishan Gopal and another Vs. Lala and others, 2013 (4) RCR (Civil) 276***, wherein notional income of a 10 year old child, was taken as Rs.30,000/- p.a. and accident in this case took place in the year 1992. Further reference can be made to a judgment passed in ***FAO-159-2015 titled Beet Nath and another V/s. Gulab Singh and others***, wherein the notional income of the deceased, who was 15 year old, had been taken as Rs.50,000/- and the accident took place in the year 2012. Hence, to meet the ends of justice, the compensation is hereby reassessed taking the notional income of the deceased as Rs.50,000/- p.a. keeping in view the above referred judgments and 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)	Annual Income	Rs.50,000/-p.a.
(ii)	Compensation after multiplier of 15 applied	50,000X15=Rs.7,50,000/-
(iii)	Funeral expenses	Rs.15,000/-
(iv)	Medical expenses	Rs.1,36,260/-
(v)	Loss of Filial Consortium	Rs.80,000/- (Rs.40,000/- each to appellants No. 1 and 2)
(vii)	TOTAL COMPENSATION AWARDED	Rs. 9,81,260/-
(ix)	ENHANCED AMOUNT OF COMPENSATION	Rs.9,81,260/-Rs.3,96,260/-= Rs.5,85,000/-

The enhanced amount of compensation of **Rs.5,85,000/-** 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, 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 present appeal is allowed.

(RITU BAHRI)
JUDGE

19.08.2019
Divyanshi

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