

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 140 of 2017(O&M)
Date of decision: 24.09.2019

Mohinder Singh and others

...Appellants

V/s.

Subhash Chander and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Ashwani Arora, Advocate for the appellants.

Mr. Bikramjit Aroura, Advocate for
respondent No. 1.

Mr. Pankaj Mehta, Advocate for
respondent No. 3-insurance co.

RITU BAHRI, J. (Oral).

CM-492-CII-2017

For the reasons mentioned in the application, the same is
allowed and the delay of 95 days in refiling the appeal is condoned.

FAO-140-2017

The claimants have come up in appeal against the award of the
Tribunal dated 29.08.2015 whereby they have been awarded compensation
of Rs.4,40,000/- on account of death of Rajdeep Singh who died in a road
accident which took place on 04.12.2014.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 04.12.2014 at about 10:15
p.m., deceased Rajdeep Singh was coming after visiting Khirri Sharif
Giarvi Wale Baba Ji, Indergarh to his village Matwani via Dharamkot on
motorcycle bearing No. PB-19/H-1706, which was being driven by Vir

Singh. Rajdeep Singh and Gurwinder Singh were sitting on pillion seat. They were followed by Avtar Singh son of Nachhattar Singh and Harpal Singh son of Piara Singh, on a separate motorcycle. When they reached near Government Animal Dispensary, Indergarh, near sharp turning, a truck trolle ten tyres bearing No. PB-30/K-9163 came from front side with a fast speed and on wrong side, hit the motorcycle on which the deceased was travelling. The above said truck was driven by respondent No. 2 in a rash and negligent manner. The deceased was seriously injured and was taken to Civil Hospital, Moga where doctors declared him brought dead. 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 respondent No. 2, the driver of the offending vehicle. This finding has been rightly given in favour of the claimants keeping in view that FIR No. 340 dated 05.12.2014 under Sections 304-A, 279, 337, 338 and 427 IPC (Ex.P1) was registered at Police Station Dharamkot against the driver of offending vehicle on the statement of Avtar Singh.

The deceased was 17 years of age and the tribunal had assessed his notion income as Rs.30,000/- per annum and assessed the following compensation:-

Sr. No.	HEADS	CALCULATIONS
(i)	Annual Income	Rs.30,000/-p.a.
(ii)	Compensation after multiplier of 13 applied keeping in view the age of mother as 49 years	30,000X13=Rs.3,90,000/-
(iii)	Funeral expenses	Rs.25,000/-
(iv)	Loss of love and affection	Rs.25,000/-
	TOTAL COMPENSATION AWARDED	Rs. 4,40,000/-

The Tribunal had given compensation of Rs.4,40,000/- 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 deceased was 17 years of age. The accident in the present case has taken place in the year 2014. This Court had taken the notional income of the child as Rs.50,000/- per annum in ***FAO No. 33256 of 2016 Hakam Singh and another V/s. Dimple and others*** keeping in view the 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 18 applied	50,000X18=Rs.9,00,000/-
(iii)	Funeral expenses	Rs.15,000/-
(iv)	Loss of estate	Rs.15,000/-
(v)	Loss of Filial Consortium	Rs.1,20,000/- (Rs.40,000/- each to all appellants)
(vii)	TOTAL COMPENSATION AWARDED	Rs. 10,50,000/-
(ix)	ENHANCED AMOUNT OF COMPENSATION	Rs.10,50,000/-Rs.4,40,000/- = Rs.6,10,000/-

The enhanced amount of compensation of **Rs.6,10,000/-** 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

24.09.2019
Divyanshi

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No