

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

FAO No.7656 of 2016 (O&M)

Date of decision: 28.08.2019

Satwinder Kaur and another

....Appellants

Versus

Anil Oberoi and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. J.S. Cooner, Advocate,
for the appellants.

Mr. Rajneesh Malhotra, Advocate,
and Mr. Punit Jain, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

CM No.25906-CII of 2016

For the reasons mentioned in the application, same is allowed
and delay of 130 days in filing of the appeal is condoned.

FAO No.7656 of 2016 (O&M)

This appeal has been filed by the claimant-appellants seeking
enhancement of compensation awarded by Motor Accident Claims Tribunal,
Patiala (hereinafter referred to as 'the Tribunal') vide award dated
01.03.2016 on account of death of Harpinder Singh @ Harbhinder Singh in
a motor vehicular accident which took place on 27.08.2014. Appellant No.1
is widow and appellant No. 2 is son of deceased Harpinder Singh @
Harbhinder Singh.

FACTS NOT IN DISPUTE

@ HarbhinderSingh (since deceased) was going from his house towards Gurudwara Sahib at Dera Baba Hari Chand, village Madanpur, Tehsil Rajpura on a motorcycle No. PB-26-C-8102. When he reached near the cut, from where a link road leads towards Dera Baba Hari Chand, in the meantime, a Swift car bearing No. DL-3-CBL-8960 being driven by Anil Oberoi-respondent No.1 in a rash and negligent manner, came from behind and hit the motorcycle of Harpinder Singh, as a result of which, he fell on the metaled road along with his motorcycle and received multiple, simple & grievous injuries. Amanpreet Singh-claimant No.2 shifted his father Harpinder Singh to AP Jain Ciivl Hospital, Rajpura, from where he was referred to GMCH, Sector 32, Chandigarh. Unfortunately, Harpinder Singh succumbed to the injuries on 02.09.2014. With regard to the incident, FIR under Sections 279/427/304-A IPC was registered against respondent No.1 at Police Station, Shambu. 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 Harpinder Singh @ Harbhinder Singh. This finding was rightly given on the basis of deposition of Amanpreet Singh (PW-1). Apart from this, claimants have also proved on record copy of FIR Ex.P3, postmortem report of deceased Ex.P4 and certified copy of charge sheet Ex.P5.

The deceased was working as *Granthi* in the Gurudwara Sahib. On the basis of evidence adduced by the claimants, income of the deceased was assessed as Rs.10,000/- per month i.e. Rs.1,20,000/- per annum, out of

which, one-third amount was deducted towards his personal expenses. By doing so, the total income of deceased came to Rs.80,000/- per annum. As per postmortem report Ex.P4, deceased was 58 years of age at the time of death/accident. Accordingly, multiplier of 09 was applied. After applying the multiplier of 09, dependency of claimants came to Rs.7,20,000/- (80,000/- x 09). In addition to it, Rs.1,00,000/- were awarded on account of loss of love and affection, Rs.50,000/- on account of loss of consortium and Rs.10,000/- for funeral expenses etc. Hence, the claimants were found entitled to total compensation of Rs.8,80,000/- along with interest @ 9% 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. 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
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(i)	Income	Rs.10,000/- per month
(ii)	10% of (i) above to be added as future prospects	10,000 + 1000 = Rs.11,000/-
(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	11,000 – 3666 = Rs.7334/-
(iv)	Compensation after multiplier of 09 is applied	Rs.7334/- x 12 x 09 = Rs.7,92,072/-
(v)	Loss of estate	Rs.15,000/-
(vi)	Funeral expenses	Rs.15,000/-
(vii)	Loss of filial consortium to the appellants (claimant No.1 and 2).	Rs.80,000/- (Rs.40,000/- each)
(viii)	TOTAL COMPENSATION AWARDED	Rs.9,02,072/-
(ix)	Enhanced amount of compensation	Rs.9,02,072 – 8,80,000 = Rs.22,072/-

The enhanced amount of compensation of **Rs.22,072/-** 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

28.08.2019
ajp

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