

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 89 of 2015
Date of decision: 25.09.2019

Ram Kishan and others

...Appellants

V/s.

Malik Singh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. K.C. Rajput, Advocate for the appellants.

None for respondents No. 1 and 2.

Mr. Lalit Garg, Advocate for
respondent No. 3-insurance co.

RITU BAHRI, J. (Oral).

The claimants have come up in appeal against the award of the tribunal dated 07.08.2014 whereby they have been awarded compensation of Rs.4,81,300/- on account of death of Vikas who died in a road accident which took place on 24.01.2013.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 24.01.2013 Vikas alongwith Aman was coming from Rohtak to Sonapat in Honda City Car No. DL 7 CF-3952 and Sandeep alias Bona alongwith Yogender alias Sonu was coming in Swift Car No. DL 12CC 1044. Honda City Car was being driven by Aman at a moderate speed by observing the traffic rules and intensity of traffic and said swift Car was coming behind it and at about 6.30/7.00 p.m. when the car reached at Pakasma Turn at Sonapat Road a Truck bearing registration No. HR 21-3524 was found wrongly parked on the road without

any indicator/reflector. However said Aman tried to save his vehicle but the said vehicle struck against the parked Truck and accident occurred. Aman and Vikas sustained serious and grievous multiple injuries on their persons. As a result, Vikas succumbed to his injuries. 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 carelessness on the part of respondent No. 1 who wrongly parked his vehicle on the road. This finding has been rightly given in favour of the claimants keeping in view FIR (Ex.P1) and report under Section 173 Cr.P.C., which show that the case regarding the accident in question was registered on the basis of statement of PW1 Sandeep eye-witness of the alleged accident.

The deceased was 20 years of age as per the post mortem report. The tribunal had assessed monthly income of the deceased as Rs.4,500/- p.m. and assessed the following compensation:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	4,500/-p.m.
(ii)	30% of (i) above to be added as future prospects	4,500+1,350=Rs.5,850/-
(iii)	50% of (ii) deducted as personal expenses of the deceased	5,850-2,925=Rs.2,925/-
(iv)	Compensation after multiplier of 13 is applied, taking the age of father	2,925X12X13=Rs.4,56,300/-
(v)	Funeral expenses	Rs.25,000/-
	TOTAL COMPENSATION AWARDED	Rs.4,81,300/-

Hence, the claimants were found entitled to total compensation of Rs.4,81,300/- along with interest @ 7.5% per annum from the date of filing of the petition till realization. It is further observed by the tribunal that there was contributory negligence on the part of the driver of the car driven

by Aman in which deceased Vikas was travelling. Accordingly claimant is entitled to only 50% of the total amount of loss of dependency. The respondents No. 1 and 2 are held liable to pay 50% amount of total compensation. 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 20 years of age as per the post mortem report and the tribunal had assessed his monthly income as Rs.4,500/- p.m. However, the minimum wages prevalent in State of Haryana in the year 2013 were Rs.5,000/- and the income of the deceased can be taken as Rs.5,000/-p.m.

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)	Annual Income	5,000X12=Rs.60,000/-
(ii)	40% increase as future prospects	60,000+24,000=Rs.84,000/-
(iii)	½ deduction for personal expenses	84,000-42,000=Rs.42,000/-
(iv)	Total loss of dependency after applying multiplier of 18	42,000X18=Rs.7,56,000/-
(v)	Funeral expenses	Rs.15,000/-

(vi)	Loss of estate	Rs.15,000/-
(vii)	Loss of filial consortium	Rs.1,20,000/- (Rs.40,000/- each to all the three appellants)
	TOTAL COMPENSATION AWARDED	Rs.9,06,000/-
	ENHANCED AMOUNT OF COMPENSATION	9,06,000- 4,81,300=Rs.4,24,700/-

The 50% of enhanced amount of compensation of **Rs.4,24,700/-** shall be paid by respondents No. 1 and 2 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.

Accordingly, the award stands modified to the above extent and the appeal is allowed.

(RITU BAHRI)
JUDGE

25.09.2019
Divyanshi

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