

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

FAO No. 8015 of 2016(O&M)  
Date of decision: 20.11.2019

Bismilla and another

...Appellants

V/s.

Nachhattar Singh and others

...Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI.**

Present: Ms. Sona Kaur, Advocate for  
Mr. Ashish Gupta, Advocate  
for the appellants.

Mr. Kunal Garg, Advocate  
for respondents No. 1 and 2.

Mr. Aseem Aggarwal, Advocate  
for respondent No. 4.

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**RITU BAHRI, J. (Oral).**

**CM-26834-CII-2016**

For the reasons mentioned in the application, the same is  
allowed and the delay of 126 days in filing the appeal is condoned.

**FAO-8015-2016**

The appellants have come up in appeal against the award of the  
Tribunal dated 04.03.2016 whereby they have been awarded compensation  
of Rs.5,62,500/- on account of death of Ahsan, who died in a road accident  
which took place on 01.01.2015.

**FACTS NOT IN DISPUTE**

Brief facts of the case are that on 01.01.2015, the deceased  
named Ahsan along with his father was in the process for coming back from

village Adbar at about 3:00 p.m., one vehicle make LP truck bearing registration No.HR-62-3787 (hereinafter referred to as 'the offending vehicle'), driven by respondent No.3 Bhupender Singh, in a negligent and zig-zag manner at a high speed, came from Nuh side and struck the deceased Ahsan after coming on the unmetalled portion of the road. The driver could not control the offending vehicle, as a result of which Ahsan sustained injuries and died on the same day during the treatment. 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 the driver of the offending vehicle. This finding has been rightly given in favour of the claimants keeping in view FIR No. 4 dated 02.01.2015 under Sections 279 and 337 IPC was registered at Police Station Nuh against the driver/respondent No.3, copy of chargesheet (Ex.P2) and copy of report (Ex.P1) etc.

The deceased was 8 years of age at the time of accident as per post mortem report (Ex P4). The Tribunal had assessed notional income of the deceased as Rs.30,000/- per annum and assessed the following compensation:-

| Sr. No. | HEADS                                                   | CALCULATIONS                       |
|---------|---------------------------------------------------------|------------------------------------|
| (i)     | Annual Income                                           | Rs.30,000/-                        |
| (ii)    | Compensation after multiplier of 15 is applied          | 30,000X15=Rs.4,50,000/             |
| (iii)   | ½ of (ii) deducted as personal expenses of the deceased | 4,50,000-2,25,000=Rs.2,25,000/-    |
| (iv)    | 50% future prospects                                    | Rs.2,25,000+1,12,500=Rs.3,37,500/- |
| (v)     | Loss of love and affection                              | Rs.1,00,000/-                      |
| (vi)    | Loss of expectation of life of deceased                 | Rs.1,00,000/-                      |

|       |                                       |                      |
|-------|---------------------------------------|----------------------|
| (vii) | Funeral expenses                      | Rs.25,000/-          |
|       | <b>TOTAL COMPENSATION<br/>AWARDED</b> | <b>Rs.5,62,500/-</b> |

Hence, the claimants were found entitled to total compensation of Rs.5,62,500/- along with interest @ 7.5% 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 8 years of age. The accident in the present case has taken place in the year 2015. 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)    | Loss of estate                              | Rs.15,000/-                                                    |
| (v)     | Loss of Filial Consortium                   | Rs.80,000/- (Rs.40,000/-<br>each to appellants No. 1 and<br>2) |
| (vii)   | TOTAL COMPENSATION AWARDED                  | Rs. 8,60,000/-                                                 |
| (ix)    | ENHANCED AMOUNT OF<br>COMPENSATION          | Rs.8,60,000/-Rs.5,62,500/-=<br>Rs.2,97,500/-                   |

The enhanced amount of compensation of **Rs.2,97,500/-** 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 appeal is allowed.

(RITU BAHRI)  
JUDGE

20.11.2019  
Divyanshi

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