

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

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FAO No.829 of 2016
Decided on : 19.09.2019

Samunder Singh and another

... Appellants

Versus

Name Chand and others

.. Respondents

CORAM : HON'BLE MS.JUSTICE RITU BAHRI

Present : Mr.Saurabh Dalal, Advocate
for the appellants.

Mr.Suvir Dewan, Advocate
for respondent No.3.

Ritu Bahri, J. (Oral)

The appellants have come up in appeal against the award dated 05.10.2015 whereby compensation of Rs.5,93,000/- has been awarded on account of death of Manoj in a road accident which took place on 10.9.2014.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 10.9.2014, the Manoj (deceased) and his friend Ravi were riding on a motor-cycle bearing No.HR-12Q/2055 for going to village Lahli from Kalanaur. The deceased was driving the motorcycle and his friend Ravi was the pillion rider. At about 5.15 p.m. when they reached near a Dhaba on Bhiwani-Rohtak road, a truck bearing No.RJ-7GB/8551 being driven at a very high speed and in a rash and negligent manner, by Name Chand respondent No.1 came suddenly on the road from Dhaba side and hit their motor-cycle. As a result of which, they sustained multiple grievous injuries. Brother of the deceased was also following them on another motorcycle. He called ambulance and shifted

both the injured to Post Graduate Institute of Medical Sciences (PGIMS), Rohtak, but deceased died on the way. A criminal case under Sections 279, 337, 338 and 304-A IPC was registered against respondent No.1 in respect of this accident.

COMPENSATION ASSESSED BY THE MACT

Finding on issue No. 1 has been rightly returned in favour of the claimants as FIR under Sections 279, 337, 338, 304-A, and 427 IPC was lodged against the driver and he was charge-sheeted. Hence, the negligence is not disputed between the parties. The deceased was 18 years of age and the Tribunal had assessed his notional income as Rs.3000/- per month. The compensation has been assessed as under:-

Sr.No.	Heads	Calculations
(i)	Income assessed by the Tribunal	Rs.6000/- pm
(ii)	Tribunal after 1/2 of (i) above is deducted as personal expenses of the deceased	Rs.6000-3000= Rs.3000/-
(iii)	Compensation after applying multiplier 13	3000 x 12 x 13 = Rs.4,68,000/-
(iv)	Funeral expenses	Rs.25,000/-
(v)	On account of loss of love and affection	Rs.1,00,000/-
	Total compensation awarded	Rs.5,93,000/-

Hence, the claimants were found entitled to total compensation of Rs.5,93,000/-along with interest @ 7.5 % p.a. 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

Learned counsel for the appellants states that the deceased was 18 years of age at the time of death and he was unskilled worker, the benefit of future prospects ought to have been granted and multiplier of 18 ought to

have been applied. Learned counsel for the insurance company is disputing the age of the deceased. Since the insurance company has not filed any appeal, the age of the deceased is considered as 20 years.

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. In this case, compensation under the heads of funeral expenses and loss of love & affection has rightly been awarded by the Tribunal keeping in view of law prevalent at that time. In the peculiar facts and circumstances of the case, 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)	Income reassessed by the Tribunal as Rs.6000/-minus 50% deducted as personal expenses of the deceased	Rs.3000/-
(ii)	Compensation after applying multiplier 18	3000 x 12 x 18 = Rs.6,48,000/-
(iii)	40% future prospects	Rs.2,59,200/-
(iii)	Funeral expenses	Rs.25,000/-
(iv)	On account of loss of love and affection	Rs.1,00,000/-
	Total compensation awarded	Rs.10,32,200/-
	Total enhanced amount	Rs.10,32,200- 5,93,000= Rs.4,39,200/-

The enhanced amount of compensation of Rs.4,39,200/- 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

19.09.2019
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Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No