

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 939 of 2016
Date of decision: 06.09.2019

Geeta and others

...Appellants

V/s.

Gurmail Singh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: None for the appellants.

Mr. G.D. Ranga, Advocate
for respondent-Insurance Co.

RITU BAHRI, J. (Oral).

The claimants have come up in appeal against the award of the Tribunal dated 19.10.2015 whereby they have been awarded compensation of Rs.14,57,740/- on account of death of Sukhdev, who died in a road accident which took place on 31.12.2014.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 31.12.2014, Jagpal alias Pala (complainant) alongwith Sukhdev (since deceased), Parveen alias Rinku and Vijay son of Jai Bhagwan were going to Chandigarh in an Alto Car bearing registration No. HR-41C-2344, which was being driven by Sukhdev. At about 9:00 a.m., when they reached near village Bulana, situated on Hisar-Ambala Road and were on their left side of the road, a Truck bearing No. PB-23-M-2023 (hereinafter referred to as offending vehicle) being driven by its driver/respondent No. 1 at a very fast speed and in a rash and negligent manner came from front side and directly hit against their Car,

while coming on wrong side of the road. They were pulled out from the Car by the passers-by. The driver of the offending vehicle fled away from the spot. They were brought in Civil Hospital, Ambala by the passers-by and Sukhdev succumbed to the injuries there. 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 that FIR No. 1 dated 01.01.2015 under Sections 279/337/304-A IPC (Ex.PB) was registered at Police Station Sadar, Ambala on the statement of complainant Jagpal alias Pala and the post mortem report Ex.PA.

The deceased was 28 years of age at the time of accident as per post mortem report (Ex.PA). The Tribunal had assessed following compensation by taking monthly income of the deceased as Rs. 8,580/- p.m. keeping in view the minimum wages fixed by the government for an unskilled labourer in the year 2014:-

Sr. No.	HEADS	CALCULATIONS
(i)	Monthly Income	8,580/-
(ii)	1/4 th deduction for personal expenses	8,580-2,145=Rs.6,435/-
(iii)	Total loss of dependency after applying multiplier of 17	6,435 X12X17 =Rs.13,12,740/-
(iv)	Funeral expenses and transportation	Rs.20,000/-
(v)	Loss of love and affection	Rs.50,000/-
(vi)	Loss of consortium	Rs.75,000/-
	TOTAL COMPENSATION AWARDED	Rs. 14,57,740/-

Hence, the claimants were found entitled to total compensation of Rs.14,57,740/- 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 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.

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	8,580X12=1,02,960/-
(ii)	40% of (i) is to be added as future prospects	1,02,960+41184=Rs.1,44,144/-
(iii)	1/4 th of (ii) is to be deducted as personal expenses	1,44,144-36,036=Rs.1,08,108/-
(iv)	Compensation after multiplier of 17 applied	1,08,108X17=Rs.18,37,836/-
(v)	Funeral expenses	Rs.15,000/-
(vi)	Loss of estate	Rs.15,000/-
(vii)	Loss of Filial Consortium	Rs.2,00,000/- (Rs.40,000/- each to all the appellants)
(viii)	TOTAL COMPENSATION AWARDED	Rs. 20,67,836/-
(ix)	ENHANCED AMOUNT OF COMPENSATION	Rs.20,67,836-14,57,740/-= Rs.6,10,096/-

The enhanced amount of compensation of **Rs.6,10,096/-** 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

06.09.2019
Divyanshi

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