

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 4177 of 2017 (O&M)
Date of decision: 24.10.2019

Om Parkash and others

...Appellants

V/s.

Madan Lal and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Sumit Gupta, Advocate
for the appellants.

Ms. Vandana Malhotra, Advocate for
respondent No.3-insurance co.

RITU BAHRI, J. (Oral).

CM-13215-CII-2017

For the reasons mentioned in the application, the same is
allowed and the delay of 385 days in filing the appeal is condoned.

FAO-4177-2017

The appellants have come up in appeal against the award of the
tribunal dated 05.01.2016 whereby they have been awarded compensation
of Rs.10,05,000/- on account of death of Kitabo, who died in a road
accident which took place on 16.08.2014.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 16.08.2014 at about 9.00
p.m., deceased Bijender and Smt. Kitabo alongwith Pardeep S/o Laxman
R/o village Chirana, were standing near bus stop of village Chirana. A
truck bearing registration No. HR-47A-3422 (hereinafter referred to as
offending vehicle) came from Gohana side being driven by respondent No.

1 in a rash and negligent manner. The offending vehicle jumped on the speed breaker due to which respondent No. 1 lost control over the vehicle. The offending vehicle turned turtle and fell on Pardeep, Bijender and Smt. Kitabo who were standing there. All the three persons died on the spot. 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. 279 dated 17.08.2014 under Sections 279/304-A IPC was registered against respondent No.1 at Police Station Sadar Gohana and post mortem report (Ex.P3).

The age of the deceased was 48 years as per postmortem report (Ex.P3) at the time of accident. The tribunal had assessed monthly income of the deceased as Rs.5,000/- p.m. and assessed the following compensation:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.5,000/- p.m.
(ii)	50% of (i) added as future prospects	5,000+2,500=Rs.7,500/-
(iii)	1/3 rd of (ii) deducted as personal expenses	7,500-2,500=Rs.5,000/-
(iv)	Compensation after multiplier of 13 is applied	5,000X12X13=Rs.7,80,000/-
(v)	Loss of consortium	Rs.1,00,000/-
(vi)	Loss of love and affection	Rs.1,00,000/-
(vii)	Funeral expenses	Rs.25,000/-
	TOTAL COMPENSATION AWARDED	Rs.10,05,000/-

Hence, the claimants were found entitled to total compensation of Rs.10,05,000/- along with interest @ 8% 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 48 years of age at the time of accident and was housewife. Keeping in view the minimum wages prevalent in State of Haryana in the year 2014 of highly skilled worker, the income of the deceased can be taken as Rs.9,000/- p.m. However, it is being clarified that no benefit of future prospects will be given and no deduction for personal expenses will be made.

Hence to meet the ends of justice, the compensation is hereby reassessed keeping in view the judgment 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) and the judgment passed by this Court in *FAO-218-2014* titled as *United India Insurance Co. Ltd. V/s. Sube Singh and others* as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.9,000/-p.m.
(ii)	Compensation after multiplier of 13 is applied	9,000X12X13=Rs.14,04,000/-
(iii)	Funeral expenses	Rs.15,000/-
(iv)	Loss of estate	Rs.15,000/-

(v)	Loss of <i>filial</i> consortium	Rs.2,40,000/- (Rs.40,000/- each to all the appellants and to respondents No. 4 to 6)
	TOTAL COMPENSATION AWARDED	Rs.16,74,000/-
	ENHANCED AMOUNT OF COMPENSATION	16,74,000- 10,05,000=Rs.6,69,000/-

The enhanced amount of compensation of **Rs.6,69,000/-** 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

24.10.2019
Divyanshi

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