

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No.4617 of 2017 (O&M)

Date of decision: 20.08.2019

Mamta and another

....Appellants

Versus

Jeewan Singh and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Dheeraj Narula, Advocate,
for the appellants.

Mr. Gaurav Aggarwal, Advocate,
for respondent No.1.

Ms. Vandana Malhotra, Advocate,
for respondent No.2-Insurance Company.

RITU BAHRI J. (Oral)

CM No.13804-CII of 2017

In view of the averments mentioned in the application, same is allowed and delay of 01 day in filing of the appeal is condoned.

FAO No.4617 of 2017

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Sirsa (hereinafter referred to as 'the Tribunal') vide award dated 04.02.2017, on account of death of Bakha Singh alias Bagga Singh in a motor vehicular accident which took place on 13.09.2014. Appellant No.1 is widow and appellant No. 2 is son of deceased-Bakha Singh alias Bagga Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 13.09.2014, at about 7.00/7.30 p.m., Bakha Singh alias Bagga Singh (since deceased) was coming from

21-A-1130. When he reached in front of GT road, Vita Milk Dairy, a Swaraj Tractor bearing registration No.PB-31-L-8507 being driven by Jeewan Singh-respondent No.1 in a rash and negligent manner, came from the side of Fatehabad and struck against the motorcycle of Bakha Singh alias Bagga Singh, as a result of which, he (Bakha Singh) fell down and received serious, multiple and grievous injuries. He was taken to Govt. Hospital, Fatehabad, from where he was referred to Govt. Hospital, Sirsa. Thereafter, he was taken to Devi Lal Vidyapeeth Hospital, Sirsa and Astha Hospital, Sirsa, where he succumbed to the injuries during treatment. With regard to the accident, FIR No.231 dated 14.09.2014, under Sections 279/304-A IPC was registered against respondent No.1 at Police Station, Ding. Consequently, the claimant-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had taken place on account of rash and negligent driving of offending vehicle by respondent No.1, as a result of which Bakha Singh alias Bagga Singh has died and thus, returned finding on issue no.1 in favour of the claimants. This finding was rightly given on the basis of the deposition of Mamta (PW-1) and HC Sushil Kumar (PW-2). Further, the claimants have proved on record postmortem report of deceased as Ex.P1, certified copy of FIR Ex.P2, report under Section 173 Cr.P.C. Ex.P9 etc.

In the absence of any documentary evidence, income of the deceased was assessed by the Tribunal as Rs.5000/- per month as that of an unskilled labourer. In this income, 50% addition was made on account of future prospects, which came to Rs.7500/- per month. Out of this income,

doing so, remaining income came to Rs.5000/- per month (Rs.7500 – 2500). As per postmortem report Ex.P1, deceased was 28 years of age at the time of accident/death. Accordingly, multiplier of 17 was applied by the Tribunal. After applying the multiplier of 17, dependency of claimants (widow & son respectively) came to Rs.10,20,000/- (5000 x 12 x 17). In addition to it, Rs.25,000/- were awarded as transportation/funeral expenses, Rs.1,00,000/- for love & affection and Rs.1,00,000/- as loss of consortium. Hence, appellant-claimants were found entitled to total compensation of Rs.12,45,000/- along with interest @ 9% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-appellant has 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. Parties are not in dispute with respect to the findings given by the Tribunal on issue No.1 that the accident had taken place on account of rash and negligent driving of the offending vehicle by respondent No.1. In the peculiar facts and circumstances of the case, to meet the ends of justice, the compensation is hereby reassessed in view of the judgments passed by Hon'ble the Supreme Court in **Sarla Verma and others vs. Delhi Transport Corporation and another**, 2009 (3) RCR (Civil) Page 77, **National Insurance Company Limited Vs. Pranay Sethi and others**, Special Leave Petition (Civil) No.25590 of 2014 (decided on 31.10.2017) and **Magma General Insurance Co. Ltd. vs. Nanu Ram alias Chuhru Ram & Ors.**, 2018 (4) RCR (Civil) 333, as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income (as per minimum wages)	Rs.6000/- per month
(ii)	40% of (i) above to be added as future prospects	6000 + 2400 = Rs.8400/-
(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	8400 – 2800 = Rs.5600/-
(iv)	Compensation after multiplier of 17 is applied	Rs.5600/- x 12 x 17 = Rs.11,42,400/-
(v)	Loss of consortium	Rs.1,00,000/-
(vi)	Loss of love and affection	Rs.1,00,000/-
(vii)	Funeral expenses/transportation	Rs.25,000/-
(viii)	TOTAL COMPENSATION AWARDED	Rs.13,67,400/-
(ix)	Enhanced amount of compensation	Rs.13,67,400 – 12,45,000 = Rs.1,22,400/-

The enhanced amount of compensation of **Rs.1,22,400/-** 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 keeping in view the judgment passed by Hon'ble the Supreme Court in **Dara Singh @ Dhara Banjara vs. Shyam Singh Verma & others**, Civil Appeal No.4528 of 2019 (arising out of SLP (C) No.5720 of 2019), decided on 01.05.2019. Remaining conditions of disbursal of amount shall remain unaltered.

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

(RITU BAHRI)
JUDGE

20.08.2019
ajp

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