

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

**FAO No.2212 of 2018 (O&M)
Date of decision: 02.09.2019**

Malkiat Kaur and others

....Appellants

Versus

Amarjit Singh and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. L.S. Sidhu, Advocate,
for the appellants.

Mr. A.S. Rai, Advocate,
for the respondents.

RITU BAHRI J. (Oral)

CM No.8346-CII of 2018

For the reasons mentioned in the application, same is allowed and delay of 712 days in re-filing of the appeal is condoned.

FAO No.2212 of 2018 (O&M)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'the Tribunal') vide award dated 23.09.2015, on account of death of Sham Lal in a motor vehicular accident which took place on 06.05.2013. Appellants are widow and daughters of deceased Sham Lal.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 06.05.2013, Sham Lal (since deceased) along with his nephew (*bhanja*) Ranjit Singh were going towards their village on a motorcycle, which was being driven by Ranjit Singh. At

about 8.15 A.M., when they reached ahead of Thuhi Petrol Pump, Ranjit Singh stopped the motorcycle on the *katcha* berm for urine purpose. In the meantime, a Jeep bearing No.DL-4-C-8863 being driven by Amarjit Singh-respondent No.1 in a rash and negligent manner, came from backside and struck against Sham Lal, as a result of which, he (Sham Lal) received multiple injuries. He was taken to Civil Hospital, Nabha, from where he was referred to Rajindra Hospital, Patiala. However, he was got admitted in Bhandaris Brain and Spine Centre (Kamal Hospital), Patiala, where he remained admitted from 06.05.2013 to 01.06.2013. Unfortunately, he succumbed to the injuries on 01.06.2013. With regard to the accident, FIR No.48 dated 07.05.2013, under Section 279/337/427 IPC was registered at Police Station, Nabha against respondent No.1. 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 its driver i.e. respondent No.1, as a result of which Sham Lal 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 Jagdeep Kaur (PW-2), who was eye witness of the accident. Further, the claimants have proved on record copy of FIR Ex.C61, postmortem report as Ex.C62, death certificate of Sham Lal Ex.C63 and charge sheet x.C64.

In the absence of any documentary proof, income of the deceased was assessed by the Tribunal as Rs.5000/- per month i.e. Rs.60,000/- per annum, out of which, one-third ($1/3^{\text{rd}}$) amount was deducted

towards his personal expenses and 15% addition was made on account of future prospects. By doing so, total income came to Rs.46,000/- per annum. The deceased was 55 years of age at the time of accident/death. Multiplier of 11 was applied by the Tribunal. After applying the multiplier of 11, dependency of claimants came to Rs.5,06,000/- (46,000 x 11). In addition to it, Rs.1,00,000/- were awarded to claimant No.1-widow towards loss of consortium, Rs.25,000/- on account of funeral expenses, Rs.10,000/- for attendant charges, Rs.10,000/- for transportation, Rs.3,57,000/- for medical treatment. Hence, appellant-claimants were found entitled to total compensation of Rs.10,08,000/- along with interest @ 6% per annum 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

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. Accident, in the present case, took place on 06.05.2013. As per minimum wages prevalent at that time, income of deceased can be taken as Rs.6200/- per month. Accordingly, the income of the deceased is being assessed as Rs.6200/- per month. Hence, 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	Rs.6200/- per month
(ii)	10% of (i) above to be added as future prospects	$6200 + 620 = \text{Rs.}6820/-$
(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	$6820 - 2273 = \text{Rs.}4547/-$
(iv)	Compensation after multiplier of 11 is applied	$\text{Rs.}4547/- \times 12 \times 11 = \text{Rs.}6,00,204/-$
(v)	Medical expenses (as awarded by the Tribunal as per bills)	Rs.3,57,000/-
(vi)	Attendant and transportation charges (during the period, deceased remain admitted in hospital)	Rs.20,000/-
(vii)	Compensation on account of loss of estate	Rs.15,000/-
(viii)	Loss of consortium to widow-claimant No.1.	Rs.40,000/-
(ix)	Loss of filial consortium to the daughters (claimant-appellant Nos.2 and 3)	Rs.80,000/- (Rs.40,000/- each)
(x)	Funeral expenses	Rs.15,000/-
(xi)	TOTAL COMPENSATION AWARDED	Rs.11,27,204/-
(xii)	Enhanced amount of compensation	Rs.11,27,204 - 10,08,000 = Rs.1,19,204/-

The enhanced amount of compensation of **Rs.1,19,204/-** 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

02.09.2019
ajp

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