

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 28 of 2011

Date of decision: 07.11.2019

Kamla Devi and another

...Appellants

V/s.

Iqbal and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Raman Sharma, Advocate
for the appellants.

M. Rajneesh Malhotra, Advocate for
respondent No.3-insurance co.

RITU BAHRI, J. (Oral).

The appellants have come up in appeal against the award of the tribunal dated 04.02.2010 whereby they have been awarded compensation of Rs.1,20,000/- on account of death of Pardeep Kumar, who died in a road accident which took place on 16.06.2008.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 16.06.2008 at about 9:55 p.m., Pardeep Kumar (deceased) boarded Tractor bearing No.HR-10K-9341 at Bahalgarh near Petrol Pump. When the tractor was crossing the G.T. Road, a Canter/Mini truck bearing No.PB-10BU-3740 (hereinafter referred to as 'offending vehicle') came from the side of Delhi being driven by respondent No.1 at high speed, rashly and negligently without observing the traffic rules and struck against the tractor. As a result of which, the deceased fell down on the road and came under the wheels of the

Canter/Mini truck and was crushed and died at 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. 165 was got registered on 16.06.2008 (Ex.P3) against respondent No.1 at Police Station Rai and report under Section 173 Cr.P.C (Ex.P6) etc.

The deceased was 29 years of age at the time of accident and was employed as Process Server in the District Court, Sonapat. As per the copy of fixation of revised pay (Ex.P1) and salary certificate (Ex.P2), the basic pay of the deceased stands proved as Rs.6,700/- p.m. Keeping in view that claimants are entitled to financial assistance i.e. a sum equal to pay and other allowances that was last drawn by the deceased, for a period of fifteen years in accordance with Haryana Compassionate Assistance to the dependants of the Deceased Govt. Employees Rules, 2006, the tribunal compensated the claimants only Rs.1,10,000/- under the head of loss of estate, love and affection and Rs.10,000/- under the head of transportation. Hence, the claimants were found entitled to total compensation of Rs.1,20,000/- 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 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 29 years of age at the time of accident and was employed as Process Server in the District Court, Sonapat. As per the copy of fixation of revised pay (Ex.P1) and salary certificate (Ex.P2), the basic pay of the deceased was Rs.6,700/- p.m. 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	6,700/- p.m.
(ii)	50% future prospects	6,700+3,350=Rs.10,050/-
(iii)	1/3 rd of (ii) deducted as personal expenses of the deceased	10,050-3,350=Rs.6,700/-
(iv)	Compensation after multiplier of 17 is applied	6,700X12X17=Rs.13,66,800/-
(v)	Funeral expenses	Rs.15,000/-
(vi)	Loss of estate	Rs.15,000/-
(vii)	Loss of <i>filial</i> consortium	Rs.80,000/- (Rs.40,000/- each to both the appellants)
	TOTAL	Rs.14,76,800/-
	Minus salary received for 15 years under 2006 Rules	6,700X12X15=-12,06,000/-
	TOTAL COMPENSATION	Rs.2,70,800/-
	ENHANCED AMOUNT OF COMPENSATION	2,70,800-1,20,000=Rs.1,50,800/-

The enhanced amount of compensation of **Rs.1,50,800/-** 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

07.11.2019
Divyanshi

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