

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.376 of 2018 (O&M)

Date of Decision: 15.10.2019

Manju Bala and others

..Appellants

Vs.

Ravinder and others

..Respondents

CORAM: HON'BLE MS.JUSTICE RITU BAHRI

Present: Mr.Abhimanyu Singh, Advocate for the appellants.

Mr.Rakesh Dhiman, Advocate for respondent No.1.

Mr.Rajesh Verma, Advocate for respondent No.3.

RITU BAHRI, J.

This appeal has been filed by the claimant-appellants against the award of the Tribunal dated 20.7.2017 whereby compensation of ₹13,42,997/- has been awarded to the claimants on account of death of Rajesh Kumar in a motor vehicular accident which took place on 15.7.2016.

FACTS NOT IN DISPUTE

Brief facts of the case are that Rajesh Kumar had died in a road accident which took place on 15.07.2016. He was coming to his house on his motor-cycle bearing registration No.HR-26-CN-1518 and his uncle Laxman was following the deceased Rajesh. When he reached at bye pass Bhiwani Rohtak Road Kalanaur, a car EON bearing registration No.HR-16-N-3549 (the offending car) driven by respondent No.1 in a rash and negligent manner, came from Bhiwani and hit the motor cycle of Rajesh. As a result of which, Rajesh Kumar fell down on the road and sustained

multiple grievous fatal injuries on his body. He was taken to Civil Hospital, Kalanaur from-where he was referred to PGIMS Rohtak and then to Sarvodaya Hospital, Hisar where he died during treatment. With regard to the alleged accident, FIR No.567 dated 16.07.2016 under Sections 279/337/304-A IPC was registered against the respondents at Police Station Kalanaur. Consequently, 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 occurred on account of rash and negligent driving of offending car driven by respondent No.1. This finding was rightly given on the basis of FIR and the deposition of PW1 Laxman, who was the eye witness of the accident.

The deceased was 36 years of age and being unskilled worker, the Tribunal had assessed his income as ₹8000/- per month and after deducting 1/4th of his income towards his personal expenses, his annual income was taken as ₹72,000/- per annum (₹6000x12) and after applying the multiplier of 15, annual dependency of claimants came to ₹10,80,000/- (72,000x15), ₹50,000/- towards loss of consortium, ₹25000/- for funeral expenses, ₹25,000/- towards transportation, ₹1,00,000/- towards love and affection and ₹62,997/- towards bills of the treatment were also awarded. Hence, the claimants were found entitled to total compensation of ₹13,42,997/- alongwith interest @ 9% per annum from the date of filing of petition till its realization.

Feeling dissatisfied with the impugned award, the appellants-

claimants 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 caused by respondent No.1. Finding of negligence has rightly been given by the Tribunal and it does not require any interference on that account. In the peculiar facts and circumstances of the case, to meet the ends of justice and as the deceased was 36 years of age, his income has rightly been taken as ₹8000/- p.m. but future prospects are required to be added. Therefore, the compensation is hereby re-assessed in view of the judgments passed by Hon'ble the Supreme Court in *Magma General Insurance Company Ltd. Versus 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:

<i>Sr.No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Income	₹6000x12=72,000/-per annum
(ii)	40% of (i) above to be added as future prospects	₹72,000+28,800=1,00,800/-
(iii)	After deduction of 1/4th as personal expenses	₹1,00,800-25,200= ₹75,600/-
(iv)	After applying multiplier of 15	₹11,34,000/- (75,600x15)
(v)	Bills expenses	₹62,997/-
(vi)	Funeral expenses	₹25,000/-
(vii)	Transportation charges	₹25,000/-
(viii)	Loss of Filial Consortium	₹25,000/-
(viii)	Loss of love and affection	₹1,00,000/-
(ix)	Total Compensation awarded	₹13,71,997/-
(x)	Enhanced amount of compensation	₹13,71,997-13,42,997/-= ₹29,000/-

The enhanced amount of compensation of ₹29,000/- 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 the claim petition, till its realisation, in view of the judgment of Hon'ble the Supreme Court in the case of *Dara Singh @ Dhara Banjara Versus 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.

15.10.2019
Meenu

(Ritu Bahri)
Judge

Whether speaking/reasoned	- Yes/No
Whether Reportable	- Yes/No