

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 4262 of 2018 (O&M)
Date of decision: 09.09.2019

Beena and others

...Appellants

V/s.

Hardeep Singh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Satnam Sishodia, Advocate for the appellants.

Mr. Sanjeev Pabii, Advocate for the insurance co.

RITU BAHRI, J. (Oral).

The claimants have come up in appeal against the award of the Tribunal dated 11.12.2017 whereby they have been awarded compensation of Rs.17,62,800/- on account of death of Kala alias Kala Singh, who died in a road accident which took place on 29.11.2016.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 29.11.2016 deceased Kala alias Kala Singh alongwith claimant No.1 was returning from Amloh to Sangrur on motorcycle bearing registration No. PB-13AP-7404. The motorcycle was being driven by Kala alias Kala Singh at normal speed on his correct side with due care and caution and whereas the claimant No. 1 was the pillion rider. At about 8:30 a.m., when they reached within the jurisdiction of village Chhintanwala, Police Station, Nabha, a truck bearing registration No. PB-11AN-7445 driven by respondent No. 1 in a rash and negligent manner came from opposite side and hit the motorcycle of the

deceased. As a result of which both the occupants of motorcycle fell down on the road and sustained multiple grievous injuries on their person. Both the injured were shifted to Civil Hospital, Nabha, then Rajindra Hospital, Patiala, then Amar Hospital, Patiala and from where he was taken to PGI-Chandigarh, where he succumbed to the injuries. 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 that FIR No. 143 dated 29.11.2016 under Sections 279, 377 and 427 IPC was registered at Police Station, Sadar Nabha (Ex.C1) and post mortem report (Ex.C2).

The deceased was 31 years of age at the time of accident. Tribunal had assessed monthly income of the deceased as Rs.8,000/- p.m. and assessed the following compensation:-

Sr. No.	HEADS	CALCULATIONS
(i)	Annual Income	8,000X12=Rs.96,000/-
(ii)	40% increase as future prospects	96,000+38,400=Rs.1,34,400/-
(iii)	¼ deduction for personal expenses	1,34,400-33,600=Rs.1,00,800/-
(iv)	Total loss of dependency after applying multiplier of 16	1,00,800X16=Rs.16,12,800/-
(v)	Medical expenses	Rs.50,000/-
(vi)	Loss of consortium	Rs.40,000/-
(vii)	Loss of love and affection	Rs.40,000/-
(viii)	Funeral expenses	Rs.15,000/-
(ix)	Transportation	Rs.5,000/-
	TOTAL COMPENSATION AWARDED	Rs. 17,62,800/-

Hence, the claimants were found entitled to total compensation of Rs.17,62,800/- along with interest @ 7% 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.

Learned counsel for the appellants has argued that the claimants examined Raju CW-1 who filed his affidavit Ex.CW1/A and deposed that deceased Kala alias Bhola was working as waiter with him for the last 10-12 years. He used to earn Rs.10,000/- per month by doing the work of waiter. Sunny Singh CW-3 also filed his affidavit Ex.CW3/A and deposed that his brother-in-law was a vegetable vendor and used to earn Rs.3,000/- per day. The Tribunal has taken the monthly income of the deceased as Rs.8,000/- p.m. However, his monthly income can be taken as Rs.9,000/- (skilled labourer) keeping in view the minimum wages prevalent in State of Punjab in the year 2016.

Hence, 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)	Annual Income	9,000X12=Rs.1,08,000/-
(ii)	40% increase as future prospects	108000+43200=Rs.1,51,200/-

(iii)	¼ deduction for personal expenses	1,51,200-37,800=Rs.1,13,400/-
(iv)	Total loss of dependency after applying multiplier of 16	1,13,400X16=Rs.18,14,400/-
(v)	Medical expenses	Rs.50,000/-
(vi)	Loss of filial consortium	Rs.1,60,000/- (Rs.40,000/- each to all the appellants)
(vii)	Funeral expenses and transportation	Rs.15,000/-
(viii)	Loss of estate	Rs.15,000/-
	TOTAL COMPENSATION AWARDED	Rs.20,54,400/-
	ENHANCED AMOUNT OF COMPENSATION	2054400-17,62,800=Rs.2,91,600/-

The enhanced amount of compensation of **Rs.2,91,600/-** 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 present appeal is allowed.

Pending application also stands allowed.

(RITU BAHRI)
JUDGE

09.09.2019
Divyanshi

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