

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

**FAO No.698 of 2017 (O&M)
Date of decision: 04.10.2019**

Om Parkash and another

....Appellants

Versus

Laxmi Narayan and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. S.K. Verma, Advocate,
for the appellants.

Mr. Amit Kundra, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Bhiwani (hereinafter referred to as 'the Tribunal') vide award dated 10.10.2016 on account of death of Sandeep in a motor vehicular accident which took place on 20.02.2015. Appellants are parents of deceased Sandeep.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 20.02.2015, after attending marriage of Yash son of Harveen, Sandeep (since deceased) along with Kapil, Arun, Lakhvinder, Digamber and Jitender was coming towards village Machgar in a car bearing registration No. HR-29-AE-0584. The said car was being driven by Arun. When they reached near Gulshan Dhaba at

village Khtela, suddenly a truck, TATA LPT-2515, bearing registration No. HR-38-P-7695 being driven by Laxmi Narain-respondent No.1 in a rash and negligent manner, came from the opposite side and struck against the car, as a result of which, Sandeep suffered multiple and grievous injuries. Other occupants of the car also received injuries. The injured were taken to the Park Hospital, Banchari Palwal. However, Sandeep succumbed to the injuries and the remaining injured were referred to Faridabad. With regard to the incident, FIR No. 112 dated 21.02.2015, under Sections 279/304-A IPC was registered against respondent No.1 at Police Station, Sadar, Palwal. 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 the offending vehicle by its driver, which resulted into the death of Sandeep. This finding was rightly given on the basis of deposition of Kapil (PW-1), who was eye witnesses of the accident and on whose statement, FIR Ex.P1 was registered. Apart from this, claimants have also proved on record postmortem report of deceased as Ex.P2.

The deceased was employed as Gram Sachiv and as per salary certificate Ex.P9, he was drawing total pay of Rs.17,969/- per month. Accordingly, the Tribunal has taken his income as Rs.18,000/- per month, out of which, out of which, one-half (50%) amount was deducted towards his personal expenses. By doing so, the total income of deceased came to Rs.9000/- per month. As per postmortem report Ex.P2, deceased was 26 years of age at the time of death/accident. He was unmarried. Accordingly,

multiplier of 17 was applied. After applying the multiplier of 17, dependency of claimants came to Rs.18,36,000/- (9000/- x 12 x 17). In addition to it, Rs.1,00,000/- were awarded on account of loss of love and affection and Rs.25,000/- towards transportation and funeral expenses. Hence, the claimants were found entitled to total compensation of Rs.19,61,000/- along with interest @ 9% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-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. Parties are not in dispute that the accident had taken place on account of rash and negligent driving of the offending vehicle by its driver. 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 Company Ltd. vs. Nanu Ram alias Chuhru Ram and others, Civil Appeal No.9581 of 2018, as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.18,000/- per month
(ii)	50% of (i) above to be added as future prospects	18,000 + 9000 = Rs.27,000/-

(iii)	50% of (ii) above is deducted as personal expenses of the deceased	27,000 – 13,500 = Rs.13,500/-
(iv)	Compensation after multiplier of 17 is applied	Rs.13,500/- x 12 x 17 = Rs.27,54,000/-
(v)	Loss of estate	Rs.15,000/-
(vi)	Funeral expenses	Rs.15,000/-
(vii)	Loss of filial consortium to the parents-appellants (claimant Nos.1 & 2).	Rs.80,000/- (Rs.40,000/- each)
(viii)	TOTAL COMPENSATION AWARDED	Rs.28,64,000/-
(ix)	Enhanced amount of compensation	Rs.28,64,000 – 19,61,000 = Rs.9,03,000/-

The enhanced amount of compensation of **Rs.9,03,000/-** 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 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 vs. Shyam Singh Varma and 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

04.10.2019
ajp

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