

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

FAO No.7098 of 2017 (O&M)

Date of decision: 29.10.2019

Nishan Singh and others

....Appellants

Versus

Manjit Singh @ Mahana and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Kushagra Mahajan, Advocate,
for the appellants.

Ms. Vandana Malhotra, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

CM No.22807-CII of 2017

For the reasons mentioned in the application, same is allowed
and delay of 84 days in filing of the appeal is condoned.

FAO No.7098 of 2017

This appeal has been filed by the claimant-appellants seeking
enhancement of compensation awarded by Motor Accident Claims Tribunal,
Amritsar (hereinafter referred to as 'the Tribunal') vide award dated
03.12.2016, on account of death of Jagdish Kaur in a motor vehicular
accident which took place on 30.12.2015. Appellant No.1 is husband and
appellant Nos.2 to 4 are daughters of deceased Jagdish Kaur.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 30.12.2015, Jagdish Kaur
(since deceased) along with her son Mangal Singh and some other persons
had gone to do work of labour at village Nawan Pind. After finishing their

work, they were coming back on a Gharuka. At about 5.30 P.M., when they reached near Petrol Pump of village Akalgarh Dhapiyan, a bus bearing No. PB-02-BV-8955, being driven by Manjit Singh @ Mahana-respondent No.1 in a rash and negligent manner, came from the side of Amritsar and struck against the Gharuka, as a result of which, Jagdish Kaur, Mangal Singh and other persons suffered multiple injuries. They were taken to Guru Ram Dass Hospital, Amritsar, where Jagdish Kaur was declared brought dead. With regard to the accident, FIR No.75 dated 31.12.2015, under Sections 304-A/279/427/337/338 IPC was registered against respondent No.1 at Police Station, Tarsika. 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 respondent No.1, as a result of which Jagdish Kaur has died and thus, returned finding on issue no.1 in favour of the claimant. This finding was rightly given on the basis of the deposition of Jagir Singh (PW-2), who was eye witness of the accident. Further, the claimant has proved on record copy of postmortem report deceased Ex.P1 and FIR Ex.P2.

Deceased-Jagdish Kaur was working as labourer besides doing household work. The Tribunal has assessed her notional income as Rs.3000/- per month i.e. Rs.36,000/- per annum. As per postmortem report Ex.P1, deceased was 55 years of age. Accordingly, multiplier of 11 was applied. After applying the multiplier of 11, dependency of claimants came to Rs.3,96,000/- (Rs.36,000 x 11). In addition to this, Rs.25,000/- were

awarded on account of funeral expenses, Rs.5000/- as loss of estate and Rs.25,000/- to claimant No.1-husband on account of loss of consortium. Hence, the claimants were found entitled to receive compensation of Rs.4,51,000/- along with with interest @ 7.5% per annum from the date of filing of the petition till realization. Feeling dissatisfied with the impugned award, the claimant-appellant has 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 with respect to the findings given by the Tribunal on issue No.1 that the accident had taken place on account of rash and negligent driving of the offending vehicle by respondent No.1.

At this stage, reference can be made to a judgment passed in **United India Insurance Company Limited vs. Sube Singh and others,** FAO-218-2014 (decided on 15.01.2014), wherein deceased was 40 years old lady and the Co-ordinate Bench of this Court has observed that to tag a housewife as a 'skilled' worker alone does not do complete justice to her multifarious role as a home manager. It has further been observed that a housewife is something more than a mere skilled worker and it would not be unreasonable to estimate the contribution of the deceased at a higher figure. Being a housewife, her income had been assessed at Rs.9000/- per month and no deduction was made in the income, so assessed.

In the facts of the present case, deceased-Jagdish Kaur used to do the labour work. The claimants were dependent upon her mother for

their livelihood. Deceased was 55 years of age at the time of death/accident. Therefore, following the ratio of judgment passed in **Sube Singh's** case (supra), income of deceased is being assessed as Rs.9000/- 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 law laid down 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), **Magma General Insurance Co. Ltd. vs. Nanu Ram alias Chuhru Ram & Ors.**, 2018 (4) RCR (Civil) 333 and **Sube Singh's** case (supra), as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	Rs.9000/- per month
(ii)	Compensation after multiplier of 11 is applied (age 55 years)	9000 x 12 x 11 = Rs.11,88,000/-
(iii)	Loss of consortium to the husband i.e. appellant No.1.	Rs.40,000/-
(iv)	Loss of filial consortium to the daughters i.e. appellant Nos.2, 3 and 4.	Rs.1,20,000/- (Rs.40,000/-each)
(v)	Compensation on account of loss of estate	Rs.15,000/-
(vi)	Funeral expenses	Rs.15,000/-
(vii)	TOTAL COMPENSATION AWARDED	Rs.13,78,000/-
(viii)	Enhanced amount of compensation	Rs.13,78,000 – 4,51,000 = Rs.9,27,000/-

The enhanced amount of compensation of **Rs.9,27,000/-** 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 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.

29.10.2019
ajp

(RITU BAHRI)
JUDGE

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