

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

**FAO No.4526 of 2018 (O&M)
Date of decision: 22.10.2019**

Sangeeta Sharma and others

....Appellants

Versus

Bhira Singh @ Balbir Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Suresh Kumar Kaushik, Advocate,
for the appellants.

Mr. Satish Jain, 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, Hisar (hereinafter referred to as 'the Tribunal') vide award dated 01.05.2013 on account of death of Amit Sharma in a motor vehicular accident which took place on 18.09.2011. Appellants No.1 is widow, appellant Nos.2 to 4 are children and proforma respondent Nos.4 & 5 are parents of deceased Amit Sharma.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 18.09.2011, Amit Sharma (since deceased) along with Parkash son of Sh. Ashok Kumar was going from Sirsa towards Dabwali in a car bearing registration No. HR-20-S-8359.

When they reached near *Bijli* Ghar ahead of village Khairkhan, District Sirsa, in the meantime, a tractor bearing registration No. HR-19-3012 being driven by respondent No.1-Bhaira Singh alias Balbir Singh in a rash and negligent manner, came from the opposite side and struck against the car, as a result of which, Amit Sharma, received grievous injuries and died at the spot. Parkash also received serious injuries in the accident. This accident was witnessed by Baljinder Singh son of Amar Singh and Hira Lal son of Aidan. With regard to the incident, FIR Ex.P3 was registered against respondent No.1 on the statement of Baljinder Singh. 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 Amit Sharma. This finding was rightly given on the basis of deposition of Parkash Chand Bansal (PW-1) and Baljinder Singh (PW-2), who were eye witnesses of the accident. Apart from this, claimants have also proved on record copy of FIR Ex.P3 and postmortem report of deceased as Ex.P5.

On the basis of evidence adduced by the claimants, Tribunal has assessed the income of deceased as Rs.8347/- per month i.e. Rs.1,00,164/- per annum + Rs.15,649/- (incentives as mentioned in Ex.P2), total Rs.1,15,813/- per annum. Out of this income, one-fourth amount was deducted towards his personal expenses. By doing so, the total income of deceased came to Rs.86,859.75/-, rounded off as Rs.86,860/- per annum.

The deceased was 31 years of age at the time of death/accident.

Accordingly, multiplier of 16 was applied. After applying the multiplier of 16, dependency of claimants came to Rs.13,89,760/- (86,860/- x 16). In addition to it, Rs.5000/- were awarded on account of funeral expenses, Rs.25,000/- as loss of love and affection and conrostium and Rs.5000/-on account of loss of estate. Hence, the claimants were found entitled to total compensation of Rs.14,24,760/- along with interest @ 7.5% 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. There is no dispute with regard to the finding 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 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
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(i)	Income	Rs.1,15,813/- per annum
(ii)	40% of (i) above to be added as future prospects	1,15,813 + 46325 = Rs.1,62,138/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	1,62,138 – 40,534 = Rs.1,21,604/-
(iv)	Compensation after multiplier of 16 is applied	Rs.1,21,604/- x 16 = Rs.19,45,664/-
(v)	Loss of estate	Rs.15,000/-
(vi)	Funeral expenses	Rs.15,000/-
(vii)	Loss of consortium to widow-appellant No.1	Rs.40,000/-
(viii)	Loss of filial consortium to the children-appellant Nos.2, 3 and 4.	Rs.1,20,000/- (Rs.40,000/- each)
(ix)	Loss of filial consortium to the parents (proforma respondent Nos.4 and 5)	Rs.80,000/- (Rs.40,000/- each)
(x)	TOTAL COMPENSATION AWARDED	Rs.22,15,664/-
(xi)	Enhanced amount of compensation	Rs.22,15,664 – 14,24,760 = Rs.7,90,904/-

The enhanced amount of compensation of **Rs.7,90,904/-** 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

22.10.2019

ajp

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