

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

**FAO No. 3959 of 2012  
Date of decision: 28.08.2019**

**Rajesh and another**

**...Appellants**

**V/s.**

**Dalpat Singh @ Dallu and others**

**...Respondents**

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI.**

Present: Mr. D.R. Bansal, Advocate for the appellants.

Mr. Rajbir Singh, Advocate for respondent No. 3.

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**RITU BAHRI, J. (Oral).**

The claimants have come up in appeal against the award of the Tribunal dated 08.02.2012 whereby they have been awarded compensation of Rs.2,30,000/- on account of death of Mukul, who was their son and died in a road accident which took place on 30.03.2011.

**FACTS NOT IN DISPUTE**

Brief facts of the case are that on 30.03.2011 Mukul was standing in front of house of one Hari Chand on kacha portion of Pai Road Pundri District Kaithal. In the meantime, Truck bearing registration No. HR-55-L-0182 driven by respondent No. 1 in a rash and negligent manner and also in high speed came from Faral Chowk side and struck against him. As a result thereof, he suffered fatal injuries and died at the spot. 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. 69 dated 30.03.2011 (Ex.P1) under Sections 279 and 304-A IPC was registered at Police Station Pundri and statement of ASI Satbir Singh Investigating Officer PW-5 that final report under Section 173 Cr.P.C. was submitted against respondent No. 1 and the driver was chargesheeted under Section 279 and 304 IPC on 24.08.2011.

The deceased was 7 years of age and student of 3<sup>rd</sup> standard at the time of accident. The Tribunal had assessed the compensation as under:-

| Sr. No. | HEADS                             | CALCULATIONS            |
|---------|-----------------------------------|-------------------------|
| (i)     | Notional Income                   | 15,000/- p.a.           |
| (ii)    | Multiplier of 15 is applied       | 15,000X15=Rs.2,25,000/- |
| (iii)   | Transportation and last rites     | Rs.5,000/-              |
| (iv)    | <b>TOTAL COMPENSATION AWARDED</b> | <b>Rs. 2,30,000/-</b>   |

Hence, the claimants were found entitled to total compensation of Rs.2,30,000/- along with interest @ 9% 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.

The compensation has been assessed by taking the notional income of the deceased as Rs.15,000/- p.a. The deceased was 7 years of age. The accident in the present case has taken place in the year 2011. Reference can be made to a judgment passed by Supreme Court in *Kishan Gopal and another Vs. Lala and others, 2013 (4) RCR (Civil) 276*, wherein notional income of a 10 year old child, was taken as Rs.30,000/- p.a. and accident in this case took place in the year 1992.

Hence, to meet the ends of justice, the compensation is hereby reassessed taking the notional income of the deceased as Rs.45,000/- p.a. keeping in view the above referred judgments and 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                               | Rs.45,000/-p.a.                                          |
| (ii)    | Compensation after multiplier of 15 applied | 45,000X15=6,75,000/-                                     |
| (iii)   | Funeral expenses                            | Rs.15,000/-                                              |
| (iv)    | Loss of Filial Consortium                   | Rs.80,000/- (Rs.40,000/- each to appellants No. 1 and 2) |
| (v)     | <b>TOTAL COMPENSATION AWARDED</b>           | <b>Rs.7,70,000/-</b>                                     |
| (vi)    | <b>ENHANCED AMOUNT OF COMPENSATION</b>      | <b>Rs.7,70,000/-2,30,000/-=<br/>Rs.5,40,000/-</b>        |

The enhanced amount of compensation of **Rs.5,40,000/-** 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 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.

(RITU BAHRI)  
JUDGE

28.08.2019  
Divyanshi

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