

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

263

FAO-8138-2017 (O&M)

Date of Decision: September 09, 2019

Pritam Kaur and others

.....Appellant(s)

versus

Boota Singh and others

.....Respondent(s)

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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

Mr. Ravinder Arora, Advocate
for the Insurance Company.

RITU BAHRI, J. (Oral)

The appellants have come up in appeal against the award dated 01.04.2017 whereby compensation of Rs.16,22,600/- has been awarded on account of death of Sukhvir Singh, in a road accident which took place on 05.02.2016.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 05.02.2016, at about 2:30 p.m, deceased Sukhvir Singh was going towards village 'Asa Butter' on motorcycle bearing No. PB30M-6508. When he reached near 'Dhani' of Niranjan Singh, a bus bearing No.PB30F-4578 driven by respondent No.1 rashly and negligently struck the same with the motorcycle of Sukhvir Singh. Due to that impact, the deceased was run over by the bus and succumbed to injuries at the spot. FIR No.0009 dated 05.02.2016 under Section 279/304A/427 IPC was registered at Police Station

Kotbhai, on the statement of Jasvir Singh.

COMPENSATION ASSESSED BY THE MACT

The deceased was 25 years of age and the Tribunal had assessed his notional income as Rs.8,000/- per month. The compensation has been assessed as under:-

Sr. No.	HEADS	CALCULATIONS
(i)	Income	8000 X 12= 96,000/- p.a.
(ii)	Future Prospectus (30%)	96,000+28,800 =1,24,800/- p.a
(iii)	Compensation after multiplier of 18 applied	1,24,800X18=22,46,400/-
(vi)	1/3 rd of (i) above is deducted as personal expenses of the deceased	22,46,400-7,48,800=14,97,600/-
(v)	Loss of consortium	1,00,000/-
(vi)	Funeral expenses	25000/-
(vii)	TOTAL COMPENSATION AWARDED	16,22,600/-

Hence, the claimants were found entitled to total compensation of Rs.16,22,600/- along with interest @ 7% 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

Learned counsel for the appellants states that the deceased was 25 years of age and he was working as *Siri* and Farm labour/milk producer. CW2 Rajinder Singh has been examined by the claimants who proved on record Ex.C-4 copy of writing for the year 2015-16 whereby the deceased was employed as *Siri* for the year 2015-16 at Rs.1,40,000/- p.a.

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. In the peculiar facts and circumstances of the case, 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)	Income	9000 X 12= 1,08,000/- p.a.
(ii)	Future Prospectus (40%)	1,08,000+43,200 =1,51,200/- p.a
(iii)	1/3 rd of (ii) above is deducted as personal expenses of the deceased	1,51,200-50,400=1,00,800/-
(iv)	Compensation after multiplier of 18 applied	1,00,800 X18=18,14,400/-
(v)	Funeral expenses	15000/-
(vi)	Loss of estate	15000/-
(vii)	Loss of filial consortium to appellants No.1 to 3 each	40,000X3=1,20,000/-
(viii)	TOTAL ENHANCED COMPENSATION AWARDED	Rs.19,64,400/-
(ix)	TOTAL COMPENSATION AWARDED	Rs. 16,22,600/-
(x)	ENHANCED AMOUNT OF COMPENSATION	Rs.19,64,400-Rs.16,22,600= Rs. 3,41,800/-

The enhanced amount of compensation of 3,41,800/- 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.

September 09, 2019

sonia arora

[RITU BAHRI]
JUDGE

Whether speaking/reasoned :

Yes/No

Whether Reportable :

Yes/No