

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

FAO No.5983 of 2018 (O&M)

Date of decision: 28.08.2019

Baljeet Kaur and others

....Appellants

Versus

Jasbir Singh and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. J.S. Moudgill, Advocate,
for the appellants.

Mr. R.N. Singal, 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, Patiala (hereinafter referred to as 'the Tribunal') vide award dated 01.08.2017 on account of death of Joginder Singh in a motor vehicular accident which took place on 06.11.2016. Appellant No.1 is widow, appellant Nos.2 to 4 are children and appellant Nos. 5 & 6 are parents of deceased Joginder Singh.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 06.11.2016, Joginder Singh (since deceased) along with Kulwant Raj was going towards Patiala on a motorcycle in connection with some work. One Joginder Singh son of Pritam Singh, resident of village Ismailpur, District Kurukshetra was following them on another motorcycle. When they reached in front of

Sangam Palace, a Tipper bearing registration No.PB-65-R-3332, which was going ahead of motorcycle of Joginder Singh, suddenly and without giving any indication, turned towards the Petrol Pump, due to which, motorcycle driven by Joginder Singh (deceased) struck in the backside corner of the tipper, as a result of which, both Joginder Singh and Kulwant Raj fell down on the road and received injuries. The said tipper was being driven by Jasbir Singh-respondent No.1 in a rash and negligent manner. Later on, Joginder Singh succumbed to the injuries. With regard to the incident, FIR No.121 dated 06.11.2016, under Sections 279/304-A IPC was registered against respondent No.1 at Police Station, Julkan, District Patiala. 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 Joginder Singh. This finding was rightly given on the basis of deposition of Joginder Singh (CW-1), who was eye witness of the accident and on whose statement, FIR Ex.C1 was registered. Apart from this, claimants have also proved on record copy of postmortem report of deceased Ex.C2, copies of ration cards Ex.C3 & Ex.C4, copies of jamabandies Ex.C5 & Ex.C6.

In the absence of any documentary evidence, income of the deceased was assessed as Rs.12,000/- per month, out of which, one-fourth 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.C2, deceased was 40 years of age at the time of death/accident. Accordingly, multiplier of 15 was applied. After applying the multiplier of 15, dependency of claimants came to Rs.16,20,000/- (9000/- x 12 x 15). In addition to it, Rs.25,000/- were awarded on account of funeral expenses, Rs.50,000/- towards loss of consortium to widow-claimant No.1 and Rs.1,00,000/- as loss of love and affection. Hence, the claimants were found entitled to total compensation of Rs.17,95,000/- along with interest @ 6% 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 with respect to the finding given by 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-respondent No.1. 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.12,000/- per month
(ii)	25% of (i) above to be added as future prospects	12,000 + 3000 = Rs.15,000/-
(iii)	1/4 th of (ii) above is deducted as personal expenses of the deceased	15,000 – 3750 = Rs.11,250/-
(iv)	Compensation after multiplier of 15 is applied	Rs.11,250/- x 12 x 15 = Rs.20,25,000/-
(v)	Loss of estate	Rs.15,000/-
(vi)	Funeral expenses	Rs.15,000/-
(vii)	Loss of consortium, including filial consortium, to the appellants (claimant Nos.1 to 6).	Rs.2,40,000/- (Rs.40,000/- each)
(viii)	TOTAL COMPENSATION AWARDED	Rs.22,95,000/-
(ix)	Enhanced amount of compensation	Rs.22,95,000 – 17,95,000 = Rs.5,00,000/-

The enhanced amount of compensation of **Rs.5,00,000/-** 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

28.08.2019
ajp

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