

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 6844 of 2018 (O&M)
Date of decision: 09.09.2019

Surjit Kaur and another

...Appellants

V/s.

Davinder Kumar and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Barjinder Singh, Advocate for the appellant.

Mr. Vinod Gupta, Advocate for the insurance co.

RITU BAHRI, J. (Oral).

CM-24232-CII-2018

For the reasons mentioned in the application, the same is allowed and the delay of 180 days in refiling the appeal is condoned.

CM-24233-CII-2018

Application is allowed, as prayed for.

FAO-6844-2018

The claimants have come up in appeal against the award of the Tribunal dated 13.09.2017 whereby they have been awarded compensation of Rs.5,97,000/- on account of death of Apar Singh, who died in a road accident which took place on 04.06.2015.

FACTS NOT IN DISPUTE

Brief facts of the case are that Apar Singh was working as Electrician with Bhagwant Light & Sound, Gaushala Road, Patiala. On 04.06.2015 in the night, the lighting work was being conducted by Apar Singh at Gurdwara Sahib near TB Hospital, Patiala. At about 11:00 p.m.

while Apar Singh was doing work of lighting by scaling iron stairs and was removing lights opposite Par Singh Gun House, then scooter Activa bearing registration No. PB-11BC-1927, which was being driven by respondent No. 1 in a rash and negligent manner came from Lahori Gate side and struck against iron stairs on which Apar Singh was standing. As a result Apar Singh fell down on the road alongwith iron stairs and received multiple serious and grievous injuries. Gulab Singh, Vir Singh and Bhupinder Singh reached the spot and saw Apar Singh lying in injured condition on the road. Many persons witnessed the accident who called Ambulance No. 108 and rushed Apar Singh to Rajindra Hospital, Patiala. Apar Singh succumbed to his injuries on 05.06.2015. 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 FIR (Ex.P1), statement of Gulab Singh while appearing as PW1 and statement of Gurpreet Singh while appearing as PW3.

The Tribunal had assessed monthly income of the deceased as Rs.7,000/- p.m. and applied multiplier of 16 by taking the age of claimants and assessed the following compensation:-

Sr. No.	HEADS	CALCULATIONS
(i)	Annual Income	7,000X12=Rs.84,000/-
(ii)	½ deduction for personal expenses	84,000-42,000=Rs.42,000/-
(iii)	Total loss of dependency after applying multiplier of 16	42,000X16=Rs.6,72,000/-
(iv)	Funeral expenses	Rs.25,000/-
(v)	Loss of love and affection	Rs.1,00,000/-

(vi)	Deduction of Rs.2,00,000/- received from respondents	-Rs.2,00,000/-
	TOTAL COMPENSATION AWARDED	Rs. 5,97,000/-

Hence, the claimants were found entitled to total compensation of Rs.5,97,000/- along with interest @ 7.5% 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 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.

Hence, 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)	Annual Income	7,000X12=Rs.84,000/-
(ii)	40% of (i) is to be added as future prospects	84,000+33,600=Rs.1,17,600/-
(iii)	½ of (ii) is to be deducted as personal expenses	1,17,600-58,800=Rs.58,800/-
(iv)	Compensation after multiplier of 16 applied	58,800X16=Rs.9,40,800/-
(v)	Funeral expenses	Rs.15,000/-
(vi)	Loss of estate	Rs.15,000/-
(vii)	Loss of Filial Consortium	Rs.80,000/- (Rs.40,000/- each to both the appellants)
(viii)	TOTAL COMPENSATION AWARDED	Rs. 10,50,800/-
(ix)	ENHANCED AMOUNT OF COMPENSATION	Rs.10,50,800-Rs.5,97,000= Rs. 4,53,800/-

The enhanced amount of compensation of **Rs.4,53,800/-** 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.

(RITU BAHRI)
JUDGE

09.09.2019
Divyanshi

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