

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 2892 of 2015

Date of decision: 06.09.2019

Jasbir Kaur and another

...Appellants

V/s.

Bhagwant Ram and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Pankaj Katia, Advocate for the appellant.

Mr. Neeraj Khanna, Advocate for insurance co.

RITU BAHRI, J. (Oral).

The claimants have come up in appeal against the award of the Tribunal dated 13.01.2015 whereby they have been awarded compensation of Rs.6,32,000/- on account of death of Pritam Singh @ Pritu, who died in a road accident which took place on 15.05.2013.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 15.05.2013 Arvinder Singh @ Vicky alongwith his 'phuphar' Gurjanak Singh son of Pritam Singh and Pritam Singh @ Pritu (brother of Arvinder Singh @ Vicky) had come to bus stand Singo, District Bathinda and after finishing their work, they were returning back to house of Arvinder Singh @ Vicky. Pritam Singh @ Pritu was on motorcycle bearing No. PB-13-T-5849 and was driving his motorcycle very slowly on his correct side of the road and was going ahead of Arvinder Singh @ Vicky and Gurjanak Singh. When they reached little further to bus stand Singo on their way back at 12 noon, a Mahindra Pick Up bearing No. PB-03-P-9433 (hereinafter referred to as 'offending vehicle')

driven by respondent No. 1 at a very high speed, rashly and negligently, without blowing horn came from opposite direction and respondent No.1 hit his vehicle against the motorcycle of Pritam Singh @ Pritu as a result of which, Pritam Singh @ Pritu suffered multiple injuries on various parts of his body. Arvinder Singh @ Vicky and Gurjanak Singh removed Pritam Singh to Civil Hospital, Talwandi Sabo, for medical treatment where he succumbed to his injuries and died.

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. 75 dated 15.05.2013 under Sections 304-A/427 IPC (Ex.C1) was registered at Police Station Talwandi Sabo on the statement of Arvinder Singh @ Vicky, brother of the deceased and the post mortem report Ex.C2.

The deceased was 25 years of age at the time of accident as per post mortem report (Ex.C2). The Tribunal had assessed following compensation by taking monthly income of the deceased as Rs. 4,500/- p.m.:-

Sr. No.	HEADS	CALCULATIONS
(i)	Monthly Income	Rs.4,500/-
(ii)	1/3 rd deduction for personal expenses	4,500-1500=Rs.3,000/-
(iii)	Total loss of dependency after applying multiplier of 17	3,000 X12X17 =Rs.6,12,000/-
(iv)	Loss of consortium	Rs.5,000/-
(v)	Funeral expenses	Rs.5,000/-
(vi)	Loss of estate	Rs.10,000/-
	TOTAL COMPENSATION AWARDED	Rs. 6,32,000/-

Hence, the claimants were found entitled to total compensation of Rs.6,32,000/- 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.

Hence, to meet the ends of justice, the compensation is hereby reassessed keeping in view the minimum wages prevalent in the year 2013 in the State of Punjab as Rs. 6,247/- (rounded upto Rs.6,500/- p.m.) and in view of 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	6,500X12=Rs.78,000/-
(ii)	40% of (i) is to be added as future prospects	78000+31,200=Rs.1,09,200/-
(iii)	50% of (ii) is to be deducted as personal expenses	1,09,200-54,600=Rs.54,600/-
(iv)	Compensation after multiplier of 17 applied	54,600X17=Rs.9,28,200/-
(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)
	TOTAL COMPENSATION AWARDED	Rs. 10,38,200/-
	ENHANCED AMOUNT OF COMPENSATION	Rs.10,38,200-Rs.6,32,000/-= Rs.4,06,200/-

The enhanced amount of compensation of **Rs.4,06,200/-** 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

06.09.2019

Divyanshi

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