

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No. 6131 of 2017 (O&M)
Date of decision: 03.10.2019

Gurpreet Kaur and others

...Appellants

V/s.

Suresh Kumar and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. V.S. Cooner, Advocate for
Mr. J.S. Cooner, Advocate for the appellants.

Ms. Priyadeep, Advocate for
Mr. Sanjeev Kodan, Advocate for
respondent No.3-insurance co.

RITU BAHRI, J. (Oral).

The claimants have come up in appeal against the award of the tribunal dated 10.01.2017 whereby they have been awarded compensation of Rs.16,41,520/- on account of death of Rajesh Kumar who died in a road accident which took place on 24.02.2016.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 24.02.2016 Rajesh Kumar (since deceased) alongwith his father-in-law Bhajan Singh as a pillion rider, was going to Shahzadpur side from Saha after attending a marriage party by driving his motorcycle bearing registration No. PB-65E-0313 (T) at moderate speed on his correct left hand side of the road. At about 2.00 am, when they reached near village Laha Majri, near Suraj Dhaba on Saha-Shahzadpur Road, a Maruti car bearing registration No. HR-01AH-6766 (offending car), being driven by respondent No. 1 Suresh Kumar in rash,

negligent and zig-zag manner, came from opposite side and struck against motorcycle of the deceased, by going on the extreme wrong side of the road. Due to heavy impact, both occupants alongwith motorcycle fell on the road. Rajesh Kumar fell on pucca portion of the road, whereas his father-in-law fell on katcha portion and suffered minor injuries. Rajesh Kumar suffered grievous 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 of respondent No. 1. This finding has been rightly given in favour of the claimants keeping in view FIR No. 25 dated 24.02.2016 (Ex.P3) was registered under Sections 279 and 304-A IPC at Police Station I.S. Saha, report under Section 173 Cr.P.C. (Ex.P6) and chargesheet (Ex.P5), which shows that the case regarding the accident in question was registered against respondent No. 1 on the basis of statement of PW2 Bhajan Singh, the eye-witness of the alleged accident.

The deceased was above 38 years of age as per the copy of Aadhar Card (Ex.R5). The tribunal had assessed monthly income of the deceased as Rs.9,752/- as per salary certificate (Ex.P2) and assessed the following compensation:-

Sr. No.	HEADS	CALCULATIONS
(i)	Annual Income	9,752X12=Rs.1,17,024/-
(ii)	1/4 th of (i) is deducted as personal expenses of the deceased	1,17,024-29,256=Rs.87,768/-
(iii)	Compensation after multiplier of 15 is applied	87,768X15=Rs.13,16,520/-
(iv)	Loss of consortium and companionship to claimant No.1 Gurpreet Kaur-widow	Rs.1,00,000/-

(v)	Loss of love and affection to claimants No. 2 to 5 (Rs.50,000/- each)	Rs.2,00,000/-
(vi)	Funeral expenses	Rs.25,000/-
	TOTAL COMPENSATION AWARDED	Rs.16,41,520/-

Hence, the claimants were found entitled to total compensation of Rs.16,41,520/- 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 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 deceased was above 38 years of age as per the copy of Aadhar Card (Ex.R5). As per salary certificate (Ex.P2), the monthly income of the deceased as Rs.9,752/-. 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	9,752X12=Rs.1,17,024/-
(ii)	40% increase as future prospects	1,17,024+46,810=Rs.1,63,834/-
(iii)	1/4 th deduction for personal expenses	1,63,834-40959=1,22,875/-
(iv)	Total loss of dependency after applying multiplier of 15	1,22,875X15=18,43,125/-
(v)	Funeral expenses	Rs.15,000/-
(vi)	Loss of estate	Rs.15,000/-

(vii)	Loss of filial consortium	Rs.2,00,000/- (Rs.40,000/- each to all the three appellants)
	TOTAL COMPENSATION AWARDED	Rs.20,73,125/-
	ENHANCED AMOUNT OF COMPENSATION	20,73,125-16,41,520/- =Rs.4,31,605/-

The enhanced amount of compensation of **Rs.4,31,605/-** 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 appeal is allowed. Pending application also stands allowed.

(RITU BAHRI)
JUDGE

03.10.2019
Divyanshi

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