

**236/2 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO No. 8203 of 2017

Date of decision: 21.11.2019

Jai Narain and others

...Appellants

V/s.

Sandeep and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. Anshuman Dalal, Advocate for the appellants.

Mr.R.K.Saini, Advocate

for Ms. Sheenu Sura, Advocate for respondent No.3.

RITU BAHRI, J. (Oral).

The claimants, who are the parents and minor brothers of deceased Arun, have come up in appeal against the award of the Tribunal dated 18.07.2017 whereby they have been awarded compensation of Rs 9,35,000/- on account of the death of Arun who died in a road accident which took place on 07.09.2016.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 7.9.2016 deceased Arun along with his sister-in-law(Bhabhi) Sunita was going from his village Humayunpur towards Rohtak on a motor cycle bearing registration No. HR-12A-7903 which was being driven by Arun and Sunita was pillion rider. At about 12.00 noon when they reached near Shri Ram Global School, Pakasma Mor, in the meantime a truck bearing registration No.HR-46D-3133 being driven at a very high speed and in a rash and negligent manner by respondent No.1- Sandeep Kumar came from back side and directly hit against the motor cycle of the deceased, as a result of which Sunita fell down and Arun was crushed under

the wheels of the truck. He was taken to PGIMS, Rohtak where he was declared dead by the doctors. An FIR(Ex.P-2) was registered with regard to the accident in question. The accident had occurred due to sole rash and negligent driving of respondent No.1. 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 rash and negligent driving of respondent No. 1. This finding has been rightly given in favour of the claimants keeping in view FIR (Ex.P2) and deposition of PW2 Sunita, who was riding the pillion and had witnessed the accident.

The deceased was 23 years of age as per post mortem report Ex.P-1. The Tribunal had assessed monthly income of the deceased as Rs.7,500/- p.m. and assessed the following compensation:-

Sr.No	HEADS	CALCULATIONS
1.	Income	Rs. 7,500/-
2.	½ of (1) deducted as personal expenses of the deceased	Rs. 7,500-3,750= Rs.3,750/-
3.	Compensation after applying multiplier of 18	Rs.3750 x 12 x 18 = Rs.8,10,000
6.	Loss of love and affection	Rs. 1,00,000
7.	Funeral expenses	Rs. 25,000
	TOTAL COMPENSATION AWARDED	Rs. 9,35,000/-

Hence, the claimants were found entitled to total compensation of Rs.9,35,000/- 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.

The deceased was 23 years of age and the Tribunal had assessed his monthly income as Rs.7,500/- p.m. However, as per the minimum wages prevalent in State of Punjab in the year 2016, the income of the deceased is taken as Rs.8,500/-p.m. and 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
1.	Annual income	Rs. 8500 x 12= Rs.1,02,000/-
2.	40% increase as future prospects	Rs 1,02,000/- + Rs.40,800/- = Rs.1,42,800/-
3.	½ deductions for personal expenses	Rs.1,42,800-71,400/-= Rs.71,400/-
4.	Total loss of dependency after applying multiplier of 18	Rs.71,400 x 18 = Rs.12,85,200/-
5.	Funeral expenses	Rs. 15,000/-
6.	Loss of consortium	Rs. 15,000/-
7.	Loss of filial consortium	Rs. 1,60,000/-(Rs. 40,000/- each to the appellant)
	TOTAL COMPENSATION AWARDED	Rs.14,75,200/-
	ENHANCED COMPENSATION	Rs.14,75,200-9,35,000/= Rs.5,40,200/-

The enhanced amount of compensation of **Rs. 5,40,200/-** shall be paid within a period of two months from the date of receipt of certified copy of this order. The Tribunal has awarded interest at the rate of 9% p.a. which is quite sufficient and needs no enhancement. Remaining conditions of disbursal of amount shall remain unaltered. Accordingly, the award stands modified to the above extent and the appeal is allowed.

(RITU BAHRI)
JUDGE

21.11.2019

sunita

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