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

**FAO No.810 of 2001
Date of decision : 03.11.2017**

Tota Ram and another

......Appellants

versus

Jaipal Singh and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present: Mr. Praduman Yadav, Advocate
for the appellants.

Mr. Rahul Deswal, Advocate
for respondent No.1.

Mr. R.C. Kapoor, Advocate
for the insurance company.

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**AVNEESH JHINGAN, J. (ORAL)**

The present appeal has been filed against the award dated 06.06.2000 passed by the Motor Accident Claims Tribunal, Narnaul (for short 'the Tribunal') by the unfortunate parents, who lost their only son in a motor vehicular accident, which occurred on 21.05.1999.

The file of this appeal was burnt and from the salvaged record of the partially burnt case, the same was re-constructed subject to all just exceptions and further verification.

On the ill-fated day i.e. on 21.05.1999, Anand Kumar aged 19 years was travelling on a Tempo bearing registration No.HR-19/6763, which was struck by rashly and negligently driven Traula bearing registration No.HR-46/9625. As a result of the accident, he lost his life. FIR was also registered.

The parents of the deceased filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short the 'Act'). The Tribunal awarded a sum of Rs.80,000/- in lump sum along with interest @ of 12% per annum.

Aggrieved of the said award, the present appeal has been filed for enhancement of the compensation.

The facts have not been disputed by the parties.

Learned counsel for the appellants argued that the Tribunal while awarding the compensation has not taken into consideration the age of the deceased and by subjective guess work, has awarded a sum of Rs.80,000/- which is without any basis. He further contended that no amount has been awarded under the conventional heads.

Learned counsel for the respondents stated that the accident was of the year 1999 and the income of the deceased was not proved. Hence an adequate compensation has already been awarded. No further enhancement is called for.

I have heard learned counsel for the parties and perused the paper-book.

Involvement of the vehicle and rash and negligent have not been disputed. This case is under welfare legislation, meant to compensate the family, who had suffered because of motor vehicular accident. The compensation should be to the extent to put them in their original position so far as money can. The Tribunals and the Courts are duty bound to award a just and equitable compensation. The compensation awarded should not be a windfall but on the other hand it can not be peanuts also. This is a case in which without any basis and reasoning, the Tribunal had awarded a consolidated amount. The grievance and sorrow of the parents, who has lost their only son cannot be compensated, but still in monetary terms the amount awarded should be just.

The Hon'ble Apex Court in case of ***Reshma Kumari Vs. Madan Mohan 2013(9) SCC 65, further relying upon General Manager, Kerala State Road Transport Corporation, Trivandrum vs. Mrs. Susamma Thomas and others, 1994(2) SCC 176*** *has held as under: -*

> *"32. In Susamma Thomas, this Court – though with reference to Section 110B of the Motor Vehicles Act, 1939 – stated that the multiplier method was the accepted norm of ensuring the just compensation which will make for uniformity and certainty of the awards. We are of the opinion that this statement in Susamma Thomas is equally applicable to the fatal accident claims made under Section 166 of the 1988 Act. In our view, the determination of compensation based on multiplier method is the best available means and the most satisfactory method and must be followed invariably by the tribunals and courts.*
>
> *It was held that applying multiplier is most satisfactory and best method and must be followed by*

*Courts."*

The law enunciated in the above said decision is that in order to calculate the compensation, the multiplier method should be adopted.

There cannot be second opinion on the issue that where the claimants failed to prove the monthly earning of the deceased the safest yardstick would be the minimum wages prevalent at the time of the accident. The accident in the present case occurred in May, 1999. The minimum wages of unskilled labour in State of Haryana at that time was Rs. 1901/-. The said amount should be taken as the earning of the deceased for calculating the loss of dependency and the amount of Rs.1901/- is rounded off as Rs.2000/- per month.

The Hon'ble Apex Court in case of ***Sarla Verma Vs. Delhi Transport Corporation, (2009) 6 SCC 121***, which has been approved in the latest decision of the Hon'ble Apex Court dated 31.10.2017 in case of ***National Insurance Company Limited versus Pranay Sethi and others*** **Special Leave Petition (Civil) No.25590 of 2014,** has held that while assessing the compensation, the multiplier to be applied depends upon the age of the deceased. According to the said decision, since the deceased was 19 years of age, a multiplier of 18 is to be applied.

In the above said decision, it has further been held that in case of an unmarried person, 50% deduction is to be made for self expenses.

In view of the above settled proposition of law, the loss of the dependency is re-calculated as under:-

| ***Sr. No.*** | ***Description*** | ***Amount*** |
|---|---|---|
| 1 | Monthly Income | Rs.2000/- per month |
| 2 | Annual Income | Rs.2000 x 12 = Rs.24,000/- |
| 3 | One and half deduction for self expenses | Rs.12,000/- |
| 4 | Dependency by applying multiplier of 18 | 12000x18 = Rs.2,16,000/- |

The contention of the learned counsel for the appellants with regard to awarding compensation under the conventional heads is no longer res-integra and has been decided by the Hon'ble Apex Court in case of National Insurance Company (supra) and it has been held: -

> "54. *As far as the conventional heads are concerned, we find it difficult to agree with the view expressed in Rajesh. It has granted Rs. 25,000/- towards funeral expenses, Rs. 1,00,000/- loss of consortium and Rs. 1,00,000/- towards loss of care and guidance for minor children. The head relating to loss of care and minor children does not exist. Though* ***Rajesh*** *refers to* ***Santosh Devi****, it does not seem to follow the same. The conventional and traditional heads, needless to say, cannot be determined on percentage basis because that would not be an acceptable criterion. Unlike determination of income, the said heads have to be quantified. Any quantification must have a reasonable foundation. There can be no dispute over the fact that price index, fall in bank interest, escalation of rates in many a field*

*have to be noticed. The court cannot remain oblivious to the same. There has been a thumb rule in this aspect. Otherwise, there will be extreme difficulty in determination of the same and unless the thumb rule is applied, there will be immense variation lacking any kind of consistency as a consequence of which, the orders passed by the tribunals and courts are likely to be unguided. Therefore, we think it seemly to fix reasonable sums. It seems to us that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs. 15,000/-, Rs. 40,000/- and Rs. 15,000/- respectively. The principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years. We are disposed to hold so because that will bring in consistency in respect of those heads."*

According to the said decision, the appellants are entitled to an amount of Rs.30,000/- under the conventional heads i.e. for funeral expenses and for loss of estate.

The award dated 06.06.2000 is modified to the extent that the amount awarded of Rs.80,000/- by the Tribunal is enhanced to Rs.2,46,000/-.

The claimants would be entitled to enhanced amount along with interest at the rate of 6% per annum from the date of filing of the claim petition till realization of the amount.

The appeal is partly allowed in the above said terms.

**November 03, 2017** **(AVNEESH JHINGAN)**
*sahil soni* **JUDGE**

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