IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-5521 of 2014 (O&M)
Date of decision: 06.11.2017

Narinder Kaur and another .... Appellants

Versus

Mandeep Singh and others ..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Vishwajit Bedi, Advocate
for the appellants.

Mr. Ravi K. Mattoo, Advocate
for respondent No.1.

Mr.D.R.Bansal, Advocate
for respondent No.2.

Mr. Jimmy Singla, Advocate
for respondents No.3 and 4.

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Avneesh Jhingan, J.

In the present appeal, the short issue is that the conventional heads given by the Motor Accidents Claims Tribunal, Patiala (for short, “the Tribunal') in its award dated 03.04.2014 needs to be enhanced.

Takhat Singh, aged 73 years, lost his life in a motor vehicular accident, which occurred on 08.12.2012. He was hit by rashly and negligently driven car bearing registration No.CH-03X-9093 (for short, 'the offending vehicle'). As a result, he received injuries and lost his life on 09.12.2012. FIR No.406 dated 09.12.2012 was registered at Police Station Tripuri, Patiala.

The legal heirs of the deceased filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Act').

The Tribunal after considering the material produced before it, awarded a sum of Rs.2,98,100/- along with interest @ 7.5% per annum. The amount awarded include a sum of Rs.10,000/- each under the head of funeral expenses, loss of estate and loss of consortium.

There is no dispute regarding the facts of the case by either of the parties. There is no dispute with regard to the rash and negligent driving of the offending vehicle.

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

Learned counsel for the appellant has argued that Rs.30,000/- awarded under the conventional heads are on the lower side and needs to be enhanced.

Learned counsel for respondents No.1 to 4 defended the award but could not raise any serious objection to the enhancement of compensation under the conventional heads.

The issue raised by learned counsel for the appellants is no longer res integra. The same has been authoritatively decided by latest decision of Hon'ble the Apex Court in ***National Insurance Company Ltd. vs. Pranay Sethi and Ors. in SLP (Civil) No.25590 of 2014 decided on 31.10.2017.*** The relevant part whereof reads as under:

> *"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."*

As per the decision above, the amount to be awarded under the conventional heads has been restricted to Rs.70,000/- i.e. Rs.15,000/- for loss of estate, Rs.15,000/- for funeral expenses and Rs.40,000/- for loss of consortium.

Keeping in view the facts of the case and the decision referred above, the amount of Rs.30,000/- awarded under the conventional heads is enhanced to Rs.70,000/-.

The award dated 03.04.2014 is modified to the extent that the amount awarded by the Tribunal of Rs.2,98,100/- is enhanced to Rs.3,38,100/-.

The claimants shall be entitled to enhanced amount along with interest @ 6% per annum from the date of filing the claim petition till the realisation of the amount.

The appeal is partly allowed in the aforesaid terms.

(AVNEESH JHINGAN)
JUDGE

06.11.2017
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1.Whether the order is speaking/reasoned: Yes/No

2.Whether the order is reportable : Yes/No