

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

F.A.O No. 4625 of 2015

Date of decision:- 13.11.2017

Islami and ors.

...Appellants

Versus

Khurshid and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- None for the appellants

Mr Sanjeev Goyal, Advocate for the Insurance Company

RITU BAHRI J. (Oral)

1. The present appeal has been preferred by the claimants-appellants, seeking enhancement of the amount of compensation awarded by the learned Motor Accident Claims Tribunal, Nuh at Mewat (for short, 'the Tribunal') to the tune of Rs.7,01,000/-, vide impugned award dated 26.02.2014.

2. The facts which are not in dispute are that on 23.09.2012 at about 6:30 P.M, Mehood (since deceased) was sitting along with his brother Tahir on the shop. When the deceased was crossing the road for discharging urine, in the meantime, the offending vehicle bearing registration No. HR-28B-9557 being driven by respondent No. 2 in a rash and negligent hit the deceased and he fell down on the road and died on the spot. F.I.R was registered against the driver of the offending vehicle.

3. As per the Tribunal, the deceased in the present case was 40 years old at the time of the accident. Since there was no proof of the income of the deceased, the Tribunal took the income of the deceased at Rs.48,000/-

per annum, 1/5th was deducted towards personal expenses and thereafter,

applied the multiplier of 15 keeping in view the age of his parents, in view of *Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77*, the compensation has been assessed at Rs.5,76,000/-. The claimants were awarded Rs.1,00,000/- as expenses on account of loss of consortium and Rs.25,000/- for the last rites. The total compensation awarded to the claimants was Rs.7,01,000/-.

4. The learned counsel for the claimants-appellants contends that the compensation awarded by the learned Tribunal is on the lower side and deserves to be enhanced, in view of the judgment "*Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77*", '*Rajesh and others vs. Rajbir Singh and others, 2013 (9) SCC 54*' and '*Munna Lal Jain and another vs. Vipin Kumar Sharma and others, 2015(3) Recent Apex Judgments 459*', *Asha Verman and others vs. Maharaj Singh and others, 2015(2) RCR (Civil) 520* and *Kalpanaraj and others v. Tamil Nadu State Transport Corporation, 2015(2) SCC (Civil) 193*.

5. On the other hand, the learned counsel for the respondent-Insurance Company has vehemently opposed the present appeal.

6. I have heard learned counsel for the parties and perused the record.

7. Reference at this stage can further be made to a judgment of Hon'ble the Supreme Court of India in a case of *Jakir Hussein vs. Sabir and others, 2015 ACJ 721* wherein Hon'ble the Supreme Court has held that the wage rate as per the minimum wage notification is only a yardstick and not an absolute factor to be taken to determine the compensation under the future loss of income. Minimum wage may at times fail to meet the

requirements that are need to maintain the basic quality of life since it is not inclusive of factors of cost of living index.

8. Reference at this stage can be made to a judgment of Hon'ble the Supreme Court of India in a case of ***National Insurance Company Ltd vs. Pranay Sethi and others, passed in Spl Leave Petition (Civil) No. 25590 of 2014, decided on October 31, 2017 wherein*** the issue with regard to awarding of amount under the conventional heads has been authoritatively decided, while observing 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.”

9. In the present case, the compensation is being reassessed as per the judgments mentioned above:-

Sr. No.	Heads	Calculations
(i)	Salary	Rs.5500/- per month
(ii)	40% of (i) above to be added as future prospects=	Rs.5500+Rs.2200=Rs.7700/- per month
(iii)	1/5 th of (ii) deducted as personal expenses of the deceased=	Rs.7700-Rs.1540=Rs.6160 per month
(iv)	Compensation after multiplier of 15 is applied	Rs.6160 X 12 X 15= Rs.11,08,800/-
(v)	Conventional heads (Loss of estate, Loss of consortium, funeral expenses)	Rs.70,000/-
	Total Compensation awarded	11,78,800/- (rounded off to Rs.11,79,000/-)
	Enhanced amount of compensation	Rs.11,79,000-Rs.7,01,000=Rs.4,78,000/-

10. The enhanced amount of compensation of Rs.4,78,000/- shall

be payable within a period of forty five days from the date of receipt of certified copy of this order. The appellants shall also get interest @ 9% per annum from the date of filing of the claim petition, in view of the judgment of Hon'ble the Supreme Court in a case of *Kumari Kiran through her father Harinarayan vs. Sajjan Singh and others, 2015(1) SCC 539*. The remaining conditions of disbursal of amount shall remain unaltered.

11. Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

13.11.2017

G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No