IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

F.A.O No. 4682 of 2015
Date of decision:- 13.11.2017

Kamla Khatun and ors. ...Appellants

Versus

Mohd Salim and others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr Sanjeev Goyal , Advocate
for the appellants

Mr R.N. Singhal, Advocate
for the respondent-Insurance Company

RITU BAHRI J. (Oral)

C.M. No. 14623-CII-2015

For the reasons mentioned in the applications, delay of 109 days in filing of the appeal is hereby condoned.

The application stand disposed of.

FAO No. 4682-2015

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, Sangrur (for short, 'the Tribunal') to the tune of Rs.10,31,400/-, vide impugned award dated 26.02.2014.

2. The facts which are not in dispute are that on 15.03.2013 the deceased along with Yudhidin and Mohd Nayum din were going to Sardar Dhabha on foot from bus Stand Bhasaur. The deceased was going ahead of Mohd. Yudhidin and Mohd Nayum. At about 8:30 A.M, when they reached

in front of KBBL Factory Bhasaur, in the the meantime, the offending car bearing registration No. PB-11-AW(T)-3991 came from back side being driven by respondent No. 1 in a rash and negligent struck against Mohd. Salam @ Mohd. Kankeer, as a result of which he fell down on the road and received multiple injuries on his person. The deceased was taken to Civil Hospital, Malkerkotla in that very vehicle from where he was referred to Rajindra Hospital, Patiala where he succumbed to his injuries. F.I.R No. 63 dated 15.03.2012 was lodged at P.S. Sadar, Dhuri against respondent No. 1

3. As per the Tribunal, the age of the deceased in the present case was taken at 45 years, as per ration card. Since there was no proof of the income of the deceased, the Tribunal took the income of the deceased at Rs.6000 per month, 1/5th was deducted towards personal expenses and thereafter, applied the multiplier of 14 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.8,06,400/-. The claimants were awarded Rs.1,00,000/- as expenses on account of loss of love and affection, care and guidance of minor children, Rs.1,00,000/- towards loss of consortium and Rs.25,000/- for the last rites. The total compensation awarded to the claimants was Rs.10,31,400/-.

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 the 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 been 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.7000/- per month
(ii)	25% of (i) above to be added as future prospects=	Rs.7000+Rs.1750=Rs.8750/- per month
(iii)	1/5th of (ii) deducted as personal expenses of the deceased=	Rs.8750-Rs.1750=Rs.7000 per month
(iv)	Compensation after multiplier of 14 is applied	Rs.7000 X 12 X 14= Rs.11,76,000/-
(v)	Conventional heads (Loss of estate, Loss of consortium, funeral expenses)	Rs.70,000/-
	Total Compensation awarded	12,46,000/-
	Enhanced amount of compensation	**Rs.12,46,000-Rs.10,31,400=Rs.2,14,600/-**

10. The enhanced amount of compensation of Rs.2,14,600/- 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 **(RITU BAHRI)**
G Arora ***JUDGE***

Whether speaking/reasoned Yes
Whether reportable No