IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O No. 3056 of 2017
Date of decision:- 15.12.2017

Joginder Kaur ...Appellant

Versus

Ravinder Kumar and others ...Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Sunil, K. Rana, Advocate, for the appellant.

Mr. Lalit Garg, Advocate, for the Insurance Company.

RITU BAHRI J. (Oral)

1. The present appeal has been filed by the claimants-appellants, seeking enhancement of the amount of compensation awarded by the learned Motor Accident Claims Tribunal, Ambala (for short, 'the Tribunal') to the tune of Rs.3,91,000/-, vide impugned award dated 01.12.2016.

2. The facts which are not in dispute are that on 22.08.2014 at about 5.45 p.m. deceased-Gurcharan Singh was going Ambala City from Baldev Nagar by his Scooter bearing registration No. HR01-N-4978. He was driving his scooter on a correct side of the road with a moderate speed. A truck bearing registration No. PB10-BM-4015 driven by respondent No.1 in rash and negligent manner and at a very high speed coming from Delhi side and he without observing the traffic rules and even without blowing any horn, tried to cross the busy chowk from wrong side in a very high speed and hit the scooter of the deceased, as a result of which, Shri Gurcharan Singh along with his scooter fell down on the road and the tyres of the said truck crushed over the head of the deceased and he succumbed to those injuries at the spot. The body of the deceased sent to General Hospital,

Ambala City for postmortem.

3. A Claim petition under Section 166 of Motor Vehicle Act for grant of compensation filed by Joginder Kaur wife of deceased-Gurcharan Singh on account of death of her husband in road accident before Motor Accident Claims Tribunal, Ambala.

4. As per the findings of the Tribunal, the deceased in the present case was 62 years old at the time of the accident. The Tribunal took the income of the deceased at Rs.72,000/- per annum, 1/3rd was deducted towards personal expenses and thereafter, applied the multiplier of 7, in view of ***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77.*** Total compensation amount has been assessed by the Tribunal as under :

Sr. No.	***Heads***	***Calculations***
(i)	Salary	Rs.6000/- per month
(ii)	1/3rd of (i) deducted as personal expenses of the deceased=	Rs.6000-Rs.2000=Rs.4000/-per month
(iii)	Compensation after multiplier of 7 is applied	Rs.4000X 12 X 7= Rs.3,36,000/-
(iv)	Conventional heads (towards funeral and last rites expenses)	Rs.25,000/-
(v)	Compensation towards consortium	Rs. 30,000/-
	Total Compensation awarded	Rs. 3,91,000/-

Hence, total amount awarded by the Tribunal to claimant is Rs.3,91,000/- vide MACT Award dated 01.12.2016.

5. 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.

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

7. 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 t***he 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."

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

Sr. No.	***Heads***	***Calculations***
(i)	Salary	Rs.6000/- per month
(ii)	1/3rd of (i) deducted as personal expenses of the deceased=	Rs.6000-Rs.2000=Rs.4,000/- per month
(iii)	Compensation after multiplier of 7 is applied	Rs.4000X 12 X 7= Rs.3,36,000/-
(iv)	Conventional heads (Loss of estate, Loss of consortium, funeral expenses)	Rs.70000/-
	Total Compensation awarded	Rs. 4,06,000/-
	Enhanced amount of compensation	**Rs.4,06,000-Rs.3,91,000=Rs.15,000/-**

9. The enhanced amount of compensation of Rs.15,000/- 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.

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

December 15th 2017 **(RITU BAHRI)**
Riya Grover ***JUDGE***

Whether speaking/reasoned	***Yes***
Whether reportable	***No***