

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

F.A.O No. 5474 of 2002

Date of decision:- 28.02.2018

Smt. Tara Devi

...Appellant

Versus

Union of India and Anr

...Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ravinder Arora, Advocate,
for the appellant.

RITU BAHRI J. (Oral)

The present appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Panchkula (hereinafter referred to as 'the Tribunal') vide award dated 30.07.2002, on account of death of Rakesh Kumar in a motor vehicular accident which took place on 01.02.2001.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 01.02.2001 Rakesh Kumar was going from Yamuna Nagar Side to Saharanpur on his motor cycle bearing registration No.90-P-8308X on the correct side of road and at a moderate speed. At about 4.30 p.m. When he was within the area of village parsa, District Yamuna Nagar, a Military Bus No.90-P-8308X came from the opposite side. It was being driven rashly, negligently by respondent No.2 and struck the motorcycle by going to the wrong side of the road out of Kutcha berm. As a result deceased had suffered multiple injuries and died at the spot. In this regard, an FIR has been lodged i.e. Ex.P2 against

respondent No.1.

Consequently, claimants-appellants filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had been caused on account of negligent driving of offending vehicle by respondent No.1. Claimants deposed that at the time of accident/death, deceased was 23 years of age and he was earning Rs.4,500/- per month by working as private employee at Chandigarh.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimants. Tribunal took amount towards only contribution of deceased to claimant (mother of the deceased) i.e. Rs.500/-. Hence, Tribunal assessed the compensation as under:

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Annual contribution of deceased to his mother	Rs. 6,000/-
(ii)	Multiplier applied	Rs.6000X15=90,000/-
(iv)	Compensation towards last rites and funeral expenses	Rs.10,000/-
	Total Compensation	Rs. 1,00,000/-

Feeling dissatisfied with the impugned award, the claimant-appellants have preferred the present appeal.

I have heard learned counsel for the parties and perused the case file.

REASSESSED COMPENSATION

The fact of accident is admitted and proved. In the peculiar facts and circumstances of the case, to meet the ends of justice and compensation awarded by the Tribunal requires to be reassessed keeping in view the

judgments passed by Hon'ble 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.”

In the present case, while calculating amount of compensation multiplier applied by the Tribunal is according to mother age that required to be set aside as per the law laid down in **Sarla Verma and others vs. Delhi Transport Corporation and another** , 2009 (3) RCR (Civil) Page 77, wherein it has been held that in case of deceased's age of 23 years, multiplier of 18 would be applicable, to calculate the amount of compensation payable to the claimant. In the present case, the compensation is being reassessed as per the judgments mentioned above:-

Sr. No.	Heads	Calculations
(i)	Salary	Rs. 4,500/-
(ii)	40% added in (i) towards future prospects	Rs.4,500+ 1800=Rs.6,300/-
(iii)	1/2 ^d deducting from (ii) towards personal expenses(as deceased is bachelor)	Rs.6300 -Rs. 3150= Rs.3,150/-
(iv)	Multiplier applied	Rs.3,150X12X18= 6,80,400/-
(v)	Compensation towards conventional heads	Rs. 30,000/-
	Total reassessed compensation	Rs.7,10,400/-
	Enhanced amount of compensation	Rs.7,10,400 -1,00,000=Rs.6,10,400/-

The enhanced amount of compensation of **Rs.6,10,400 /-** shall be payable within a period of two months from the date of receipt of certified copy of this order. As per the judgment of Hon'ble Supreme Court in case **Shri Nagar Mal and Ors versus The Oriental Insurance Company Ltd. And Ors decided on 19.01.2018** the enhanced amount of compensation shall carry interest @ 7.5% per annum from the date of filing of the claim petition, till its realization. Remaining conditions of disbursal of amount shall remain unaltered.

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

28.02.2018
Riya Grover

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No