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

**F.A.O No. 1692 of 2001
Date of decision:- 28.02.2018**

Smt. Santosh Rani & ors. ...Appellants

Versus

Mukesh Goel & ors. ...Respondents

***BEFORE: HON'BLE MS. JUSTICE RITU BAHRI***

Present: Mr. Saurav Kapoor, Advocate,
for the appellants.

Mr. Vinod Gupta, Advocate,
for respondent No.2.

***<u>RITU BAHRI J. (Oral)</u>***

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal') vide award dated 03.08.2000, on account of death of Sumer Chand in a motor vehicular accident which took place on 04.08.1998.

***<u>FACTS NOT IN DISPUTE</u>***

Brief facts of the case are that, on 04.08.1998, Sumer Chand (since deceased) alongwith respondent No.1 (Mukesh Goel) at about 3.30 P. M., were going from Taraori to Karnal, on a scooter bearing No. HR-05F-2461. The deceased was sitting as pillion rider and respondent No.1 was driving the scooter very rashly and negligently. That when they reached near Oasis Tourist Complex, GT Road, the scooter was slipped away on the road. As a result of that, the deceased fell down on the road and suffered multiple and grievous injuries which resulted into his death. On the statement of respondent No.1 DDR No.32, was entered in police station, Sadar Karnal.

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 dismissed the claim petition. 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.

Learned Counsel for the insurance company disputed the fact that Annexure R1 is a comprehensive policy. Learned Counsel stated that claimant paid his premium for his own damage Rs.80 and liability due already were Rs.250/-, total amount of Rs.360/- has been paid and hence it is a comprehensive policy and deceased was pillion rider and respondent No.1 who was owner of the scooter was carrying comprehensive policy R1 and covered the third party risk as well as of the pillion rider. Hence insurance company bound to give the compensation amount to claimants in view of the policy Annexuure R. Resultantly, findings of the Tribunal with regard to issue No.1 is reversed.

***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 as respondent No.1 having comprehensive policy, claimants are allowed to get compensation on account of death of Sumer chand, keeping in view the judgment 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 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."*

In the present case, the compensation is being reassessed as per the judgment mentioned above as well as keeping in view the Annexure R1, as under :-

| ***Sr. No.*** | ***Heads*** | ***Calculations*** |
|---|---|---|
| (i) | Salary | Rs. 1800/-Per month |
| (ii) | 25% added in (i) towards future prospects | Rs.1800 + 450=Rs.2,250/- |
| (iii) | 1/3rd deducting from (ii) towards personal expenses | Rs.2,250 -Rs.750= Rs.1,500/- |
| (iv) | Multiplier applied | Rs.1,500X12X13= 2,34,000/- |
| (v) | Compensation towards conventional heads | Rs. 70,000/- |
| | Total reassessed compensation | Rs.3,04,000/- |

The enhanced amount of compensation of **Rs.3,04,000/-**

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 **(RITU BAHRI)**
***Riya Grover*** ***JUDGE***

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