

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

F.A.O No. 3633 of 2004

Date of decision:- 16.03.2018

Promila Jain and anr.

...Appellants

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. H.P.S. Ishar, Advocate
for the appellants

Mr. Lalit Garg, Advocate
for respondent No. 3-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, Ambala (for short, 'the Tribunal') to the tune of Rs.04,91,676/- vide impugned award dated 12.05.2004.

2. The facts which are not in dispute are that on 28.10.2002, Shiv Mohan Jain (since deceased) was on his way from Ambala to Surajpur, on motorcycle bearing registration No. HR-01-M-7651. Satish was sitting on the pillion of the said motorcycle. When they reached near Silver City, Zirakpur, in the meantime, a bus of Haryana Roadways bearing registration No. HR-55-7957 being driven by respondent No. 3 in a rash and negligent manner came from opposite side and hit against the motorcycle of the deceased. Due to this accident, both suffered multiple and grievous injuries. Shiv Mohan Jain succumbed to the injuries suffered by him on the spot.

As per the Tribunal, the deceased-Shiv Mohan Jain in the

present case was 45 years old at the time of the accident. The Tribunal took the income of the deceased at Rs.50000/- per annum and 1/3rd was deducted towards personal expenses and thereafter, applied the multiplier of 14, in view of ***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77.*** The claimants were awarded 15000/- towards loss of consortium, Rs.10000 towards funeral expenses. The total compensation awarded to the claimant was Rs.4,91,676/-.

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.

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 be made to a recent 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.”.

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

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.50000/- per month
(ii)	25% of (i) above to be added as future prospects=	Rs.50000+Rs.12500=Rs.62500/- per annum
(iii)	1/3 of (ii) deducted as personal expenses of the deceased=	Rs.62500-Rs.20833=Rs.41667/- per annum
(iv)	Compensation after multiplier of 14 is applied	Rs.41667 X 14= Rs.05,83,338/-
(v)	Conventional heads (Loss of estate and funeral expenses)	Rs.70,000/-
(vi)	Total Compensation awarded	Rs.06,53,338/-
	Enhanced amount of compensation	Rs.06,53,338-Rs.04,91,676=Rs.1,61,662/- (rounded off to Rs.1,62,000/-)

9. The enhanced amount of compensation of Rs.1,62,000/- 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 @ 7.5% 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 *Shri Nagar Mal and ors vs. The Oriental Insurance Co. Ltd and others, passed in Civil Appeal No. 448-2018., decided on 19.01.2018*. The remaining conditions of disbursal of amount and recovery rights shall remain unaltered.

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

16.03.2018

G Arora

Whether speaking/reasoned

Whether reportable

(RITU BAHRI)

JUDGE

Yes

No