IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

F.A.O No. 4004 of 2006
Date of decision:- 05.04.2018

National Insurance Company limited ...Appellant

Versus

Smt. Baljinder Jeet Kaur and Others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. V. Ramswaroop, Advocate,
for the appellant.

Mr. Hitesh Raj Sharma, Advocate, for
Mr. Lekh Raj Sharma, Advocate,
for respondent No.6.

RITU BAHRI J. (Oral)

This appeal has been filed by the appellant against the Award dated 21.07.2006 passed by Motor Accident Claims Tribunal, Faridkot (hereinafter referred to as 'the Tribunal') whereby compensation to the tune of Rs. 14,65,000/- has been awarded to the claimants on account of death of Sukhmander Singh in a motor vehicular accident which took place on 18.09.2004.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 19.09.2004, Sukhmander Singh had gone to give meal to his son Harpreet Singh at Jaitu Mandi, on a scooter bearing No. PB03-D-6887 and while he was coming back from grain market, Jaitu at about 7.30 p.m. Then a bus bearing No. PB-30C-8078 being driven by respondent No.1 Pappu Singh in a very rash and negligent manner and without giving a horn, hit the said scooter of Sukhmander Singh, since deceased. Due to this impact, Sukhmander

Singh fell down and crushed by the bus and immediately rushed to the hospital where he declared died. In this regard an FIR Ex. A3 was registered against the respondent No.1-Papu Singh.

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

<u>COMPENSATION ASSESSED BY THE MACT</u>

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 44 years of age and he was employed as Headmaster in Govt. Senior Secondary School, mehma Sarja and was getting a salary of Rs.13,060/- per month and salary certificate Ex. A6 is proved by AW5 Anant Singh, Clerk of the said school.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimants. As per the salary certificate as Ex. A6, deceased was drawing Rs. 13,060/- per month. This certificate is also showed that he was getting Rs. 3500 /- as GP fund and thus at the time of the accident, deceased-Sukhmender Singh was getting a salary of Rs.16,560/- per month. As per the law prevalent at that time Tribunal assessed the compensation as under:

Sr. No.	***Heads***	***Calculations***
(i)	Salary	Rs. 16,560/-per month
(ii)	1/3rd deducting from (i) towards personal expenses	Rs.16,560-5,520=Rs. 11,040/-
(iii)	Multiplier applied	Rs.11,040X12X11=14,57,280/-
(iv)	Compensation towards last rites and funeral expenses	Rs.2,000/-

Sr. No.	***Heads***	***Calculations***
(v)	Compensation towards loss of consortium	Rs.5,000/-
	Total Compensation	Rs. 14,64,280/-(say Rs.14,65,000/-)

Feeling dissatisfied with the impugned award, the appellant-Insurance Company has preferred the present appeal on the short ground that while assessing the income of the deceased-Sukhmander Singh, Tribunal did not deducted the income tax from the salary of the deceased.

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

<u>REASSESSED COMPENSATION</u>

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 and income tax should also be deducted from the salary of the deceased and after deducting the 10% income tax from the salary of the deceased, amount comes to Rs.14,904/- per month. Hence this court taking the salary of the deceased at Rs.14,904/-.

Moreover, on perusal of the award, it is also observed that compensation awarded by the Tribunal beside the salary required 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 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 judgments mentioned above:-

Sr. No.	***Heads***	***Calculations***
(i)	Salary	Rs. 14,904/-
(ii)	15% added in (i) towards future prospects	Rs.14,904 + 2236=Rs.17,140/-
(iii)	1/3rd deducting from (ii) towards personal expenses	Rs.17,140 -Rs. 5713= Rs.11,427/-
(iv)	Multiplier applied	Rs.11,427X12X11= 15,08,364/-
(v)	Compensation towards conventional heads	Rs. 70,000/-
	Total reassessed compensation	Rs.15,78,364/-
	Enhanced amount of compensation	**Rs.15,78,364 -14,65,000=Rs.1,13,364/- rounded off to Rs.1,13,500/-**

The enhanced amount of compensation of **Rs.1,13,500/-** 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.

04.04.2018 **(RITU BAHRI)**

Riya Grover ***JUDGE***

Whether speaking/reasoned Yes
Whether reportable No