

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

1. FAO No. 2629 of 2009

Gurjant Singh and anr. ...Appellants

Versus

Surinder Kaur and others ...Respondents

2. FAO No. 5956 of 2011

Surinder Kaur ...Appellant

Versus

Inder Singh & ors ...Respondents

Date of decision:- 02.02.2018

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Hitesh Kumar Sammi, Advocate
for the appellant in FAO No. 2629 of 2009
and for respondent Nos. 2 and 3 in FAO No. 5956 of 2011

Mr. Harsh Aggarwal, Advocate
for respondent No. 3 in FAO No. 2629 of 2009
and for respondent No. 1 in FAO No. 5956 of 2011

Mr. R.C. Gupta, Advocate for
for respondent No. 4 in both the appeals

Ms. Gaganjot Kaur, Advocate for Mr. M.S. Sidhu, Advocate
for the appellant in FAO No. 5956 of 2011
and for respondent Nos. 1 and 2 in FAO No. 2629 of 2009

RITU BAHRI J. (Oral)

C.M. No. 12723-CII-2009 in F.A.O No. 2629-2011

For the reasons mentioned in the application, delay of 30 days
in filing of the appeal is hereby condoned.

The application stands disposed of accordingly.

FAO No. 2629-2009 and 5956-2011

The above said two appeals, as noticed above, are being disposed of

by this common judgment, having arisen out of the impugned award dated 18.11.2008 passed by the learned Motor Accident Claims Tribunal, Fatehgarh Sahib (for short the Tribunal) under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act').

Facts not in dispute

On 25.05.2006, Manjeet Singh (now deceased) along with Amrik were going to village Kharoura from village Chanrthal Kalan on motorcycle bearing No. PB-23-D-9362 driven by deceased. Kuldeep Singh was also following them on his separate scooter NO. PB-11-L-7764. When they reached near the house of Tiwana, then the from the opposite side, a bus bearing registration No. PB-11-H-5587 being driven by respondent No. 1 in a rash and negligent manner, struck against the motorcycle of the deceased. Manjeet Singh and Amrik both received multiple and grievous injuries. They were taken to Rajendra hospital where Manjeet Singh died while Amrik was under treatment. F.I.R under Sections 279/338/427/304-A IPC was registered at P.S. Mulepur in this regard.

COMPENSATION ASSESSED BY THE TRIBUNAL

Manjeet Singh

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.4500/- per month
(ii)	1/3 of (ii) deducted as personal expenses of the deceased=	Rs.4500-Rs.1500=Rs.3000/- per month
(iii)	Compensation after multiplier of 14 is applied	Rs.3000 X 12 X 14= Rs.05,04,000/-
(iv)	Transportation and funeral expenses	Rs.30,000/-
(vi)	Total Compensation awarded	Rs.05,34,000/-

Feeling dissatisfied with the impugned award, appellants have preferred the above mentioned appeals.

REASSESSED COMPENSATION

4 Learned counsel for the appellants-owners is challenging the award on the ground that the learned Tribunal has erred in law while fasting upon the liability to pay compensation upon the present appellant on the ground that the licence of respondent no. 1 was fake one.

 Learned counsel for the appellants-owners has referred to an award dated 08.06.2010 (Annexure R-3/2) arising out of the same accident filed by Amrik Singh wherein the Insurance company was held liable to pay the compensation and the driver of respondent No. 1 was found to be valid and genuine one.

 On the other hand, learned counsel for the appellant-Surinder Kaur contends that the compensation awarded by the learned Tribunal is on the lower side and deserves to be enhanced

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

 A bare perusal of the award dated 08.06.2010 shows that in that case Gurjant Singh stepped into witness box and tendered into evidence his affidavit Ex R1 along with documents and driving license, verification report. This verification was accepted by the Tribunal and the Insurance Company was held liable to make the compensation by relying upon a judgment of ***National Insurance co. Ltd v. Geeta Bhat and others, 2008 ACJ 1498 (SC)***.

 Learned counsel for the respondent-Insurance Company also informed the Court that no appeal has been filed against awarded dated 08.06.2010 and thus this award attained finality.

 Once in a separate claim petition filed by Amrik Singh, the

Insurance Company is held liable to pay the compensation, in the present case as well, the Insurance Company will have to pay the compensation and the award requires modification to this extent.

The compensation also requires to be enhanced, in view of 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 seems 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.”.

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

Sr. No.	Heads	Calculations
(i)	Salary	Rs.4500/- per month
(ii)	40% of (i) above to be added as future prospects=	Rs.4500+Rs.1800=Rs.6300/- per month
(iii)	1/3 rd of (ii) deducted as personal expenses of the deceased=	Rs.6300-Rs.2100=Rs.4200/- per month
(iv)	Compensation after multiplier of 14 is applied	Rs.4200 X 12 X 14= Rs.07,05,600/-
(v)	Conventional heads (Loss of estate, loss of consortium and funeral expenses)	Rs.70,000/-
(vi)	Total Compensation awarded	Rs.07,75,600/-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
	Enhanced amount of compensation	Rs.07,75,600-Rs.05,34,000=Rs.2,41,600/- (rounded off to Rs.2,42,000/-)

9. The enhanced amount of compensation of Rs.2,42,000/- in FAO No. 5956-2011 shall be payable within a period of forty five days from the date of receipt of certified copy of this order. The appellant-Surinder Kaur 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. Further the Insurance company is liable to make the payment of compensation to the appellant in FAO No. 5956-2011. It is hereby directed that the amount of Rs.25,000/- deposited by the appellants (FAO No. 2929-2009) at the time of filing of appeal in the Registry of this Court be returned to them.

Accordingly, the award stands modified to the above extent and the present appeals are partly allowed.

February 02, 2018

G Arora

(*RITU BAHRI*)

JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No