

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

**F.A.O No. 5664 of 2010 (O&M)
Date of decision:- 18.05.2018**

Smt. Ravinder Kaur & ors.

...Appellants

Versus

Ashok Kumar and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Ravindra Jain, Advocate, for the appellants

Mr. M.B. Jain, Advocate
for respondent No. 3

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, Yamuna Nagar at Jagadhari (for short, 'the Tribunal') to the tune of Rs.05,20,227/- vide impugned award dated 19.04.2010.

2. The facts which are not in dispute are that on 31.03.2008, the deceased Sanjiv Kumar was going to his village Tapre Pur on his motorcycle No. HR-02P-2286. He was followed by Gurcharan Singh and Harbans Singh on another motorcycle. When the deceased reached Kalawar turn on Jagadhari-Ambala road, he turned his motorcycle towards the link road, in the meantime the offending vehicle i.e Bus bearing registration No. HR-68-5318 being driven by respondent No. 3 rashly and negligently came from Jagadhari side and struck against the motorcycle of the deceased. The deceased fell down and sustained grievous injuries. The injured was taken to hospital where he remained admitted till 03.04.2008 but succumbed to

the injuries in the evening. F.I.R was also registered in this regard.

3. As per the Tribunal, the deceased-Sanjiv Kumar in the present case was 30 years old at the time of the accident. The Tribunal took the income of the deceased at Rs.3500/- per month and 1/3rd was deducted towards personal expenses and thereafter, applied the multiplier of 17, in view of *Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77*. Rs.10,000/- were awarded on account of funeral expenses and Rs.5000 towards loss of consortium. Rs.29,227/- towards bills and ambulance charges. The total compensation awarded to the claimant was Rs.05,20,227/-.

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, as the Tribunal has not awarded future prospects and the income of Rs.3500/- has been taken on the lower side. Further 1/4th should be deducted towards personal expenses instead of 1/3rd.

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. The learned Tribunal has rightly taken the income of the deceased at Rs.10,000/- per month as there was no record book, no income tax returns, no passbook, which could show that the deceased was taking the income of Rs.20,000/- per month. No record pertaining to the receipt of salary was produced by the claimants.

8. 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.”.

9. In the present case, the compensation is being reassessed as per the judgments mentioned above by taking the income of the deceased at Rs.4000/- per month:-

Sr. No.	Heads	Calculations
(i)	Income	Rs.4000/- per month
(ii)	40% of (i) above to be added as future prospects=	Rs.4000+Rs.1600=Rs.5600/- per month
(iii)	1/4 th of (ii) deducted as personal expenses of the deceased=	Rs.5600-Rs.1400=Rs.4200/- per month
(iv)	Compensation after multiplier of 17 is applied	Rs.4200X 12 X 17= Rs.08,56,800/-
(v)	Conventional heads (Loss of estate, loss of consortium and funeral expenses)	Rs.70,000/-
(vi)	Medical Bills	Rs.29,227/-
(vii)	Total Compensation awarded	Rs.09,56,027/-
	Enhanced amount of compensation	Rs.09,56,027-Rs.05,20,227=Rs.4,35,800/-) rounded off to Rs.4,36,000/-

10. The enhanced amount of compensation of Rs.4,36,000/- 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.

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

18.05.2018
G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No