IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O No. 105 of 2012
Date of decision:- 28.02.2018

Roshni Devi and anr. ...Appellants

Versus

Pawan Kumar & ors. ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Nonish Kumar, Advocate
for the appellants.

None for the respondent No.1.

Ms. Bindu Goel, Advocate,
for respondent No.2.

Mr. Subhash Goyal, Advocate
for the respondent No.3.

RITU BAHRI J. (Oral)

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 19.09.2011, on account of death of Sandeep Kumar in a motor vehicular accident which took place on 16.12.2008.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 16.12.2008 Sandeep Kumar (since deceased) was going in bus No.PB-32-QPT-8224 from Vidyawati Institute of Technology, Sambhli Road Nissang, District Karnal and when at about 4.30 P.M., the bus reached Badnara turning Nissang, then deceased Sandeep Kumar started coming down from the bus, but its driver without waiting for climbing down of Sandeep

Kumar from the bus, at once, started playing the bus, due to which he fell down and came under rear tyre of the said bus and succumbed to the injuries at the spot and postmortem on his dead body was conducted at General Hospital, Karnal. That the said accident was witnessed by Ramesh Chand son of Phulla Ram, resident of Barsana, District Kaithal. That the bus was driven in a rash and negligent manner by respondent No. 1. In this regard FIR No.395 dated 16.12.2008, under Sections 279/304-A of IPC was registered against respondent No. 1 at Police Station, Nissang.

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 18 years of age and he was earning Rs.3000/- per month by providing tutions to students upto VIIIth standard.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimants. Sandeep Kumar (since deceased) has two dependent including mother and father of deceased. Hence, Tribunal assessed the compensation as under:-

Sr. No.	***Heads***	***Calculations***
(i)	Salary	Rs. 3000/-
(ii)	1/2nd deducting from (i) towards personal expenses(being a bachelor)	Rs.3000-1500=Rs.1,500/-
(iii)	Multiplier applied	Rs.1,500X12X15=2,70,000/-
(iv)	Compensation towards last rites and funeral expenses	Rs.10,000/-

Sr. No.	*Heads*	*Calculations*
	Total Compensation	Rs. 2,80,000/-

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.

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 compensation awarded by the Tribunal requires 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 and As per the law laid down in ***Sarla Verma and others vs. Delhi TransportCorporation and another*** , 2009 (3) RCR (Civil) Page 77, in case of deceased's age of 18 years, multiplier of 18 would be applicable, to calculate the amount of compensation payable to the claimants No.1 and 2 being father and mother of the deceased.:-

Sr. No.	***Heads***	***Calculations***
(i)	Salary	Rs.3000/-
(ii)	40% added in (i) towards future prospects	Rs.3000 +1200=Rs.4,200/-
(iii)	1/2nd deducting from (ii) towards personal expenses	Rs.4,200 -Rs. 2,100= Rs.2,100/-
(iv)	Multiplier applied	Rs.2,100X12X18= 4,53,600/-
(v)	Compensation towards conventional heads	Rs. 30,000/-
	Total reassessed compensation	Rs.4,83,600/-
	Enhanced amount of compensation	**Rs.4,83,600 -2,80,000=Rs.2,03,600/-**

The enhanced amount of compensation of **Rs.2,03,600/-** 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***