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

**F.A.O No. 2861 of 2012
Date of decision:- 20.03.2018**

Indera Kalia ...Appellant

Versus

Babloo Singh and Others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Veneet Sharma, Advocate,
for the appellant.

Ms. Vandana Malhotra, Advocate,
for respondent No.3.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellant against the awarded dated 16.01.2012 passed by Motor Accident Claims Tribunal, Tarn Taran (hereinafter referred to as 'the Tribunal'), whereby an amount of Rs. 2,72,000/- awarded as compensation on account of death of entire family of Pankaj Kalia including his wife, daughter and son alongwith one Dharambir Bhardwaj in a motor vehicular accident which took place on 01.03.2004.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 01.03.2004, entire family of Pankaj Kalia (5 members) were going to Delhi to attend funeral ceremony of their relative on the car bearing No. PB10-AM-2439 (Temp) (hereinafter referred as parent vehicle) which was owned by respondent No.4, close friend of deceased; driven by Harwinder Singh son of Gurcharan Singh. They were followed by another car driven by

Gurdeep Singh son of Baldev Singh and one other car driven by Ashok Kumar with his wife Saroj Rani, other close relatives of deceased. The driver of car No. PB-10-AM-2439 temp, parent vehicle namely Harvinder Singh was driving the car at this speed and in rash and negligent manner. He was warned to drive slowly as and when time was found but he did pay no heed to the warnings. At about 6.30 am, when they reached near village Dhatt, GT road, Ludhiana, offending vehicle struck against the truck No. HR-58-4083 (hereinafter referred as offending vehicle) coming from opposite direction driven by respondent No.1 in a rash and negligent, driving of respondent No.1 while driving the offending vehicle and as result of accident, all the occupants of car died alongwith driver Harwinder Singh.

Consequently, claimant-appellant filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

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. Claimant stated that only deceased Ishwar Kalia was earning Rs.12,000/- per month while working as Civil Engineer with Semac Private Limited, Safdarjung Enclave, New Delhi. In this regard, the document has been placed on file is Ex. P9 which shows that salary of deceased as Rs.11,955/- roughly Rs.12,000/- per month. This document Ex.P9 goes unrebutted and unchallenged. So it is proved that deceased Ishwar kalia was earning Rs.12,000/- per month.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimant. Hence, Tribunal assessed the compensation as under:

Sr. No.	***Heads***	***Calculations***
(i)	Salary	Rs. 12000/- per month
(ii)	$3/4^{th}$ deducting from (i) towards personal expenses	Rs.12000-9000=Rs.3,000/-
(iii)	Multiplier applied	Rs.3000X12X7=2,52,000/-
(iv)	Compensation towards last rites and funeral expenses	Rs.20,000/-
	Total Compensation	Rs. 2,72,000/-

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.

<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 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*** :-

"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. 12000/-
(ii)	30% added in (i) towards future prospects	Rs.12,000+3,600=Rs.15,600/-
(iii)	1/2nd deducting from (ii) towards personal expenses	Rs.15,600 -7,800= Rs.7,800/-
(iv)	15 Multiplier applied (as per Sarla Verma Vs. Delhi Transport Coporation 2009(3) RCR (Civil) 77	Rs.7,800X12X15= 14,04,000/-
(v)	Compensation towards conventional heads	Rs. 30,000/-
	Total reassessed compensation	Rs.14,34,000/-
	Enhanced amount of compensation	**Rs.14,34, 000-2,72,000=Rs.11,62,000/-**

The enhanced amount of compensation of **Rs.11,62,000/-** shall be payable within a period of four weeks 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.

Learned counsel for the appellant stated that the compensation with regard to death of other three members i.e. Pankaj Kalia, Shreya Kalia and Shreshth Kalia has not been assessed at all.

Keeping in view the facts and circumstances, this matter is remanded back to the tribunal with a direction to pass the fresh order with regard to assess the compensation on account of death of Pankaj Kalia, Shrey Kalia and Shreshth Kalia in the said accident, as per the latest judgment in case ***National Insurance Company Ltd vs. Pranay Sethi and others, passed in Spl Leave Petition (Civil) No. 25590 of 2014, decided on October 31, 2017.***

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

20.03.2018 **(RITU BAHRI)**
Riya Grover ***JUDGE***

Whether speaking/reasoned Yes
Whether reportable No