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

1. FAO No. 4784 of 2012 (O&M)

Reliance General Insurance Co. Ltd. ...Appellant

Versus

Kamlesh Rani and others ...Respondents

2. FAO No. 6187 of 2016 (O&M)

Kamlesh Rani and others ...Appellants

Versus

Jaswinder Singh and others ...Respondents

Date of decision:- 30.04.2018

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Arun Sharma, Advocate for Mr. T.K. Joshi, Advocate
for the appellant in FAO No. 4784 of 2012 &
for respondent No. 3 in FAO No. 6187 of 2016

Mr. Vivek Lamba, Advocate
for respondent Nos. 1 to 3 in FAO No. 4784 of 2012 &
for the appellants in FAO No. 6187 of 2016.

Mr. Karan Singh, Advocate for respondent No. 5
in FAO No. 4784 of 2012

RITU BAHRI J.

C.M. No. 20956-CII-2012 in FAO No. 4784-2012

For the reasons mentioned in the application, delay of 06 days in filing of the appeal is hereby condoned.

The application stands disposed of accordingly.

C.M. No. 21092-93-CII-2016 in FAO No. 6187-2016

For the reasons mentioned in the application, delay of 106 days in filing and 1294 days in re-filing of the appeal is hereby condoned.

The applications stand disposed of accordingly.

FAO No. 4784-2012 and 6187-2016

1. Two appeals, as noticed above, are being disposed of by this common judgment, having arisen out of the impugned Award dated 15.05.2012 passed by the learned Motor Accident Claims Tribunal, Sirsa (herein after to be referred as 'the Tribunal').

Facts not in dispute

2. On 07.05.2011, Mohit Kumar (since deceased) was going to his room in Mullana Kasba from Laboratory after completing his work in the college, in a three wheeler bearing registration No. HR-39-9858 and when the said three wheeler reached near Mulana road, then a Ford Fiesta car bearing No. HR-02-X-3817 came from opposite side which was being driven by respondent No. 1- in a rash and negligent manner struck against the three wheeler and after causing the accident, respondent No.1 ran away from the spot. Thereafter, Mohit Kumar along with other occupants of the three wheeler were shifted to MM Institute of Medical Sciences and Research Centre, Mulana where injured Mohit Kumar succumbed to his injuries. F.I.R No. 126 dated 07.05.2011 was registered against respondent No. 1.

COMPENSATION ASSESSED BY THE TRIBUNAL

Sr. No.	***Heads***	***Calculations***
(i)	Income	Rs.15000/- per month
(ii)	½ of (ii) deducted as personal expenses of the deceased=	Rs.15000-Rs.7500=Rs.7500/- per month
(iii)	Compensation after multiplier of 13 is applied	Rs.7500 X 12 X 13= Rs.11,70,000/-
(iv)	Love and affection	Rs.20,000/-
(v)	Funeral expenses	Rs.10,000/-
(vi)	Total Compensation awarded	Rs.12,00,000/-

3. Feeling dissatisfied with the impugned award, the claimant as well as Insurance Company have preferred their separate appeal.

Arguments Advanced

4. The learned counsel for the claimant-appellant contends that the compensation awarded by the learned Tribunal is on the lower side and deserves to the enhanced, as the deceased was 21 years old but the learned Tribunal applied the multiplier of 13 instead of 18 by taking the age of parents. Further no future prospects have been granted.

5. On the other hand, the learned counsel for the respondent No.3-Insurance Company has vehemently opposed the present appeal and contends that the impugned award is liable to be modified as the deceased was not earning any amount and was only a student of 4th semester of Computer Science Engineering in MM University, Mulana and the learned Tribunal has wrongly taken the notional income of the deceased at Rs.15000/- per month.

6. Reference has been made to a judgment of Hon'ble the Supreme Court of India in a case of ***Shri Nagar Mal and others v. Oriental Insurance Co. Ltd, 2018 (1) PLR 419*** wherein while assessing the compensation, the Tribunal took the income of the deceased at Rs.6000/- per month despite the fact that the deceased was a bachelor and was pursuing the professional Chartered Accountancy Course. The deceased had monthly earning of Rs.15,000/- per month as per certificates produced by the claimants. The claimants filed the appeal before Hon'ble the Supreme Court against the judgment of the High Court confirming the award of the Tribunal. However, Hon'ble the Supreme Court held that the Tribunal has given cogent reasons for declining to accept the income certificates which

were relied upon by the father of the deceased. No witnesses were examined on behalf of the companies which were alleged to have issued the certificates to prove the certificates.

7. I have heard learned counsel for the parties and perused the record.

8. The argument raised by learned counsel for the appellant-Insurance Company is liable to be rejected as the judgment cited by learned counsel for the appellant-Insurance Company is not applicable to the facts of the present case as in that case, the father of the deceased has not examined any witnesses to prove the certificates. In the present case, the father of the deceased has solemnly affirmed and declared that he was paying Rs.1,10,000/- as annual fee besides other expenses to the tune of Rs.60,000/- per annum.

9. 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.".

10. As far as appeal preferred by the appellant in FAO No. 4784-2012, for enhancement of the amount of compensation, is concerned, the compensation is to be re-assessed as under:-

Re-assessed compensation

Sr. No.	***Heads***	***Calculations***
(i)	Income	Rs.15000/- per month
(ii)	½ of (ii) deducted as personal expenses of the deceased=	Rs.15000-Rs.7500=Rs.7500/- per month
(iii)	Compensation after multiplier of 18 is applied	Rs.7500 X 12 X 18= Rs.16,20,000/-
(iv)	Conventional heads (Loss of estate and funeral expenses)	Rs.30,000/-
(v)	Total Compensation awarded	Rs.16,50,000/-
(vi)	**Enhanced amount of compensation**	**Rs.16,50,000-Rs.12,00,000=Rs.4,50,000/-**

11. Resultantly, the appeal i.e FAO No. 4784 of 2012 filed by the Insurance Company is dismissed and the appeal i.e FAO No. 6187 of 2016 filed by the claimants-appellants is allowed to the above extent. The enhanced amount of compensation of Rs.04,50,000/- (in FAO No. 6187 of 2016) shall be payable within a period of forty five days from the date of receipt of certified copy of this order. The enhanced amount of compensation shall carry 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 shall remain unaltered.

30.04.2018 (***RITU BAHRI***)
G Arora ***JUDGE***