

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

F.A.O No.2305 of 2013

Date of decision:- 06.03.2018

Harwinder Kaur and others

...Appellants

Versus

Bhupinder Singh and Others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. P.S. Dhaliwal, Advocate,
for the appellants.

Mr. Subhash Goyal, Advocate,
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Barnala (hereinafter referred to as 'the Tribunal') vide award dated 14.10.2011, on account of death of Bhupinder Singh in a motor vehicular accident which took place on 15.03.2011.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 15.03.2011, Bhupinder Singh @ Jaggu (since deceased) was going on his Hero Honda motor Cycle No. PB-19E-2463 from Tapa Mandi towards Barnala who was accompanied Chamkaur Singh son of Darshan Singh and Naranjan Singh Ex Sarpanch son of Naginder Singh, residents of village Ugoke who were on their separate motor cycle in connection with their domestic work. When they were about 1 km away towards Handiaya Chowk from bus stand, Khudi Khurd, then one canter came from the

front and tried to overtake a truck. Then Chamkaur Singh took his motor cycle on Kacha Path while he was already going on his left side. Bhupinder Singh @ Jaggu was going ahead of Chamkaur Singh on his motor cycle on kacha path while he was already going on his left side. Bhupinder Singh @ Jaggu was going ahead of chamkaur Singh on his motor cycle on kucha pavement of road on his left side. The said truck which was being driven rashly and negligently by its driver, struck on the back side of the motor cycle of Bhupinder Singh who fell down and was run over by the truck. It is further alleged that Chamkaur Singh raised Raula in order to stop truck driver but the driver of truck instead of bearing him, dragged Bhupinder Singh about 25/30 Karams and then stooped the truck. It is alleged that Chamkaur Singh had seen Bhupinder Singh lying in serious condition and due to this accident his both legs were amputated. While Chamkaur Singh tried to look out Bhupinder Singh from underneath the truck the labourers working in the nearby fields, came there. The driver of truck also nearby and in seeing the seriousness of Bhupinder Singh the truck driver ran away from the spot. Bhupinder Singh rushed to hospital and was got admitted in CMC, Ludhiana and there he succumbed due to injuries on 17.03.2011. In this regard, an FIR Ex.P1 has been lodged in the Police Station City, Barnala against respondent NO. 1.

Consequently, claimants-appellants 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. Claimants deposed that at the time of accident/death, deceased was 44 years of age and he was earning Rs.5 lacs by cultivating his land and taking land on lease and selling milk of buffaloes.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimants. Bhupinder Singh (since deceased) has four dependents including wife, two sons and mother of the deceased. As such no proof was found regarding salary of the deceased and Tribunal took salary of the deceased as Rs. 4000/- per month as he was least capable of earning being a manual labour. Hence, Tribunal assessed the compensation as under:

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs. 4,000/-
(ii)	1/4 th deducting from (i) towards personal expenses	Rs.4,000-1,000=Rs.3,000/-
(iii)	Multiplier applied	Rs.3000X12X13=4,68,000/-
(iv)	Compensation towards last rites and funeral expenses	Rs.5,000/-
(v)	Compensation towards loss of consortium to petitioner No.1	Rs. 10,000/-
	Total Compensation	Rs. 4,83,000/-

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. As per the law laid down in *Sarla Verma and others vs. Delhi Transport Corporation and another* , 2009 (3) RCR (Civil) Page 77, in case of deceased's age of 44 years, multiplier of 14 would be

applicable, to calculate the amount of compensation payable to the claimants. 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*** 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.”

In the present case, the compensation is being reassessed and 25% future prospects also added as per the judgment above:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.4,000/-
(ii)	25% added in (i) towards future prospects	Rs.4,000+1,000=Rs.5,000/-
(iii)	1/4 th deducting from (ii) towards personal expenses	Rs.5,000 -Rs.1250= Rs.3,750/-
(iv)	Multiplier applied	Rs.3,750X12X14= 6,30,000/-
(v)	Compensation towards conventional heads	Rs. 70,000/-
	Total reassessed compensation	Rs.7,00,000/-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
	Enhanced amount of compensation	Rs.7,00,000 -4,83,000=Rs.2,17,000/-

The enhanced amount of compensation of **Rs.2,17,000/-** 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.

06.03.2018
Riya Grover

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>