IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O No. 1856 of 2015
Date of decision:- 26.03.2018

Mahinder Kaur and Ors ...Appellants

Versus

Surjit Singh and Others ...Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Namit Khurana, Advocate, for the appellants.

None for the respondents.

RITU BAHRI J. (Oral)

CM No. 5699-CII of 2015

For the reasons mentioned in the application same is allowed and delay of 50 days in refilling the appeal is condoned.

Accordingly, the present appeal stands disposed of.

Main Case:

This appeal has been filed by the claimant-appellant(s) seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Jagadhri (hereinafter referred to as 'the Tribunal') vide award dated 07.07.2014, on account of death of Gurvinder Singh in a motor vehicular accident which took place on 26.03.2013.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 26.3.2013, Gurvinder Singh, since deceased, along with one Surinder Singh son of Harbans Singh was going towards Jagadhri on respective motorcycle and when they reached Railway Bridge, Yamuna Nagar ahead of Vishavkarma Chowk, at about 7.30 p.m., then truck bearing No. HR 37C-0833 being driven by its driver respondent No.1 in a rash and negligent manner, came from behind and hit the motorcycle No. HR-02Z-9556 driven by deceased Gurvinder Singh as a result of which Gurvinder Singh fell down on the road and the truck run over Gurvinder Singh and Gurvinder Singh sustained multiple grievous injuries and died at the spot. It is further alleged that accident taken place due to rash and negligent driving of truck No.HR-37C-0833 by respondent No.1, which is owned by respondent No.2 and insured with respondent No. 3. In this regard an FIR No. 149 dated 26.03.2013 under Sections 279/304 A IPC was registered in P. S. City, Yamuna Nagar.

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 32 years of age and he was earning Rs.20,000/- per month by working as truck mechanic.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimants. Gurvinder Singh (since deceased) has four dependent including wife, two minor son and appellant No.1 mother of deceased. Although, no authentic evidence produced on behalf of the claimants regarding income of the deceased, so, it is presumed by the tribunal that deceased being an able bodied person might have been earning amount for living his life and for his family members and Tribunal reached at a considered opinion that at the time of accident, deceased Gurvinder Singh might be earning Rs.5,000/- per month. 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 32 years, multiplier of 16 would be applicable, to calculate the amount of compensation payable to the claimants. Hence, Tribunal assessed the compensation as under:

Sr. No.	***Heads***	***Calculations***
(i)	Monthly Income	Rs. 5000/-
(ii)	1/4th deducting from (i) towards personal expenses	Rs.5000-1250=Rs.3,750/-
(iii)	Multiplier applied	Rs.3,750X12X16=7,20,000/-
(iv)	Compensation towards last rites and funeral expenses	Rs.2,000/-
(v)	Compensation towards transportation	Rs.5,000/-
(vi)	Compensation towards loss of consortium	Rs.10,000/-
	Total Compensation	Rs. 7,37,000/-

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 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 as per the judgments mentioned above:-

Sr. No.	***Heads***	***Calculations***
(i)	Salary	Rs. 5000/-
(ii)	40% added in (i) towards future prospects	Rs.5,000 + 2,000=Rs.7,000/-
(iii)	1/4th deducting from (ii) towards personal expenses	Rs.7,000 -Rs. 1,750= Rs.5,250/-
(iv)	Multiplier applied	Rs.5,250X12X16= 10,08,000/-
(v)	Compensation towards conventional heads	Rs. 70,000/-
	Total reassessed compensation	Rs.10,78,000/-
	Enhanced amount of compensation	**Rs.10,78,000 -7,37,000=Rs.3,41,000/-**

The enhanced amount of compensation of **Rs.3,41,000/-** 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.

26.03.2018 **(RITU BAHRI)**
Riya Grover ***JUDGE***

Whether speaking/reasoned Yes
Whether reportable No