

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

**F.A.O No. 4093 of 2014
Date of decision:-26.03.2018**

Smt. Shimla Rani and Others	Versus	...Appellants
Sh. Mangat Ram and Others		...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ashwani Arora, Advocate,
for the appellants.

Mr. Deepak Suri, Advocate,
for respondent No.2-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, Panchkula (hereinafter referred to as 'the Tribunal') vide award dated 14.11.2013, on account of death of Smt. Manju in a motor vehicular accident which took place on 20.06.2010.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 20.06.2010, at about 6.20 P.M., Manoj Kumar Sharma, since deceased, along with his family and relatives namely Smt. Manju, Mrs. Yashika, Master Kartavya, Smt. Seema, Master Hrithik Sharma, Ms. Shreya Sharma @ Saria Sharma, Sh. Anil Kumar, Master Amit Kumar and Smt. Priyanka, car was coming on the road leading from Moonak to Sunam while driving a car

bearing registration No. HR-03-J-9145 at a moderate speed and on the due left side of the road. But when they reached near Government High School, Hamirgarh, a car bearing temporary Registration No. HR-99-FS-1396 came at a very high speed from the opposite direction i.e., from the side of Sunam and while coming on wrong direction of the road, it hit against the car of deceased. The above said car bearing temporary registration No. HR-99-FS-1396 was being driven at a fast speed and in a rash and negligent manner by Babalji Singh @ Babli. Due to the impact of the accident, all the occupants of the car bearing registration No. HR-03-J-9145 received multiple and grievous injuries and immediately after the accident, they were rushed to hospital. Smt. Manju, Master Hrithik Sharma and Ms. Shreya Sharma @ Saria Sharma had succumbed to the injuries at the spot. This accident took place because of the rash and negligent driving of driver of the car bearing temporary registration No. HR-99-FS-1396, which was being driven by its driver namely Babalji Singh @ Babli. The matter was reported to Police and in this regard, a criminal case arising out of FIR No. 95 dated 20.06.2010, under Sections 279/337/338/304-A IPC was registered against Babli for causing this accident with his rash and negligent driving at Police Station Moonak, District sangrur (Punjab).

Consequently, claimants-appellants filed a claim petitions 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 Babljit Singh @ Babli or

deceased Manoj Kumar or composite negligence of both the drivers of both the vehicles. Claimants deposed that at the time of accident/death, deceased was 31 years of age and he was earning Rs.8,000/- per month by working as Computer operator in Hartron Informatics limited, SCO 111-113, Sector-17-B, Chandigarh.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimants. As per the salary certificate, deceased was drawing Rs.8,000/- per month. PW-1 Shimla Rani also deposed that her daughter-in-law Manju used to contribute a sum of Rs.6,000/- per month towards the household expenses but there is no documentary proof to support this plea. In this regard, it is proved on record as per the post mortem report, copy of which Ex. P2, the deceased was 31 years of age at the time of accident. But keeping in view the age of the deceased and her dependents, who are his mother-in-law and two minor children, as her husband also died in this accident the peculiar facts and circumstances stated above, instead of applying the multiplier as per the age of deceased, a multiplier of 12 be applied in this case. Hence, Tribunal assessed the compensation as under:

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Income	Rs. 8,000/-per month
(ii)	1/4 th deducting from (i) towards personal expenses	Rs.8,000-2,000=Rs.6,000/-
(iii)	30% added towards future prospects	Rs. 6,000+1800=7,800/-
(iv)	Multiplier applied	Rs.7,800X12X12=11,23,200/-
(v)	Compensation towards last rites and funeral expenses	Rs.25,000/-
(vi)	Compensation to the minor children of the deceased as loss of love and affection and future guidance	Rs.51,800/-
	Total Compensation	Rs. 12,00,000/-

Feeling dissatisfied with the impugned award, the claimant-appellants have preferred the present appeal.

Learned Counsel for the appellants has referred the judgment of Hon'ble Supreme Court in case titled as **Laxmindhar Nayak and Ors Versus Jugal Kishore Behera and Others in Civil Appeal No. 19856 of 2017 decided on 28.11.2017** and stated that Tribunal did not keep in view the contribution of the deceased in the household work, being a labourer. Learned Counsel for the appellant further stated that 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 31 years, multiplier of 16 would be applicable, to calculate the amount of compensation payable to the claimants.

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 judgment referred by the learned Counsel for the appellants i.e. **Laxmindhar Nayak and Others (Supra)** , **Sarla Verma (supra)** as well as judgment 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:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Income	Rs. 8,000+7,000/-(income from household)=15,000/-
(ii)	40% added in (i) towards future prospects	Rs.15,000 + 6,000=Rs.21,000/-
(iii)	1/3 rd deducting from (ii) towards personal expenses	Rs.21,000 -Rs. 7,000= Rs.14,000/-
(iv)	Multiplier applied	Rs.14,000X12X16= 26,88,000/-
(v)	Compensation towards conventional heads	Rs. 30,000/-
	Total reassessed compensation	Rs.27,18,000/-
	Enhanced amount of compensation	Rs.27,18,000 -12,00,000=Rs.15,18,000/-

The enhanced amount of compensation of **Rs.15,18,000/-** 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

Riya Grover

Whether speaking/reasoned
Whether reportable

(RITU BAHRI)
JUDGE

Yes
No