IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O No. 2605 of 2015
Date of decision:- 14.05.2018

Vidha Devi and ors. ...Appellants

Versus

Ram Kishan and others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Gurinder Pal Singh, Advocate,
for the appellants

Mr. Shakti Kaushi, Advocate
for respondent No.1

Mr. Navin Kapur, Advocate
for respondent No. 3-Insurance Company.

RITU BAHRI J. (Oral)

1. The present appeal has been preferred by the claimants-appellants, seeking enhancement of the amount of compensation awarded by the learned Motor Accident Claims Tribunal, Rewari (for short, 'the Tribunal') to the tune of Rs.50,000/- vide impugned award dated 09.10.2014.

2. The facts which are not in dispute are that on 28.09.2012, deceased-Sumer Singh was going towards Buroli from Siha to his field plying his camel cart and when he reached near culvert in between Siha and Buroli, then a bolero bearing No. HR-36-C-2676 being driven by respondent No. 1 rashly and negligently came from behind and hit the camel cart of the deceased. The deceased was taken to GH, Rewari but he died on his way to hospital. The camel also sustained injuries and the legs were

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fractured. F.I.R No. 156 dated 28.9.2012 was registered at P.S. Khol against respondent No. 1 under Sections 279/304-A/427/429 IPC. The camel also died after 3-4 days of the accident.

3. As per the Tribunal, the deceased-Sumer Singh in the present case was 42 years old at the time of the accident. However, the tribunal only awarded compensation of Rs.50,000/- under the head of loss of estate on the ground that the deceased was unmarried and the claimants are not dependent on the deceased.

4. The learned counsel for the claimants-appellants contends that the compensation awarded by the learned Tribunal is on the lower side and deserves to the enhanced, as firstly the Tribunal has wrongly held that the claimants are not entitled to compensation, as they are not dependent upon the deceased. Further the Tribunal has not awarded anything for the loss of camel, which was purchased at Rs.1,50,000/-.

5. On the other hand, the learned counsel for the respondent-Insurance Company has vehemently opposed the present appeal.

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

7. With regard to the fact that whether the appellants, who are brothers and sisters of the deceased can be held dependent upon the deceased, reference at this stage can be made to a judgment of this Hon'ble Court in a case of ***Ram Kishore Gupta and others vs. Munshi Ram and others, 2006(4) R.C.R (Civil) 809*** wherein it has been held that brothers and sisters are also entitled to claim compensation.

8. With regard to the loss of camel, which died in the accident, there was no evidence placed on record by the appellants that it was

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purchase at Rs.1,50,000/- Only P.W.4 Ram Partap @ Partap has stated that the camel was purchased for Rs.1,50,000/- from Shimbu Gujjar of village Bhagot, District Mahindergarh but no bill was placed on record and neither Shimbu was examined.

7. In view of the above mentioned judgment, the appellants are entitled to get compensation, in view of 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*

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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.".

8. In the present case, the compensation is being reassessed as per the judgments mentioned above:-

Sr. No.	***Heads***	***Calculations***
(i)	Income	Rs.6000/- per month
(ii)	25% of (i) above to be added as future prospects=	Rs.6000+Rs.1500=Rs.7500/- per month
(iii)	1/4th of (ii) deducted as personal expenses of the deceased=	Rs.7500-Rs.1875=Rs.5625/- per month
(iv)	Compensation after multiplier of 14 is applied	Rs.5625X 12 X 14= Rs.09,45,000/-
(v)	Conventional heads (Loss of estate and funeral expenses)	Rs.30,000/-
(vi)	On account of loss of camel	Rs.50,000/-
	Total Compensation awarded	Rs.10,25,000/-
	Enhanced amount of compensation	**Rs.10,25,000-Rs.50,000=Rs.9,75,000/-**

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9. The enhanced amount of compensation of Rs.9,75,000/- shall be payable within a period of forty five days from the date of receipt of certified copy of this order. The appellants shall also get 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 and recovery rights shall remain unaltered.

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

14.05.2018 **(RITU BAHRI)**
G Arora ***JUDGE***

Whether speaking/reasoned Yes
Whether reportable No

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