

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

**F.A.O No. 4254 of 2014
Date of decision:- 09.03.2018**

Smt. Nirmala Devi and Others

...Appellants

Versus

Ravi and others

...Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ramender Chauhan, Advocate,
for the appellants.

Ms. Vandana Malhotra, Advocate,
for the 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, Bhiwani (hereinafter referred to as 'the Tribunal') vide award dated 19.12.2013, on account of death of Rajinder in a motor vehicular accident which took place on 10.09.2011.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 10.09.2011, Rajinder, since deceased, along with his employees namely Vikram (petitioner) and Raja alias Raj Kumar had gone to village Gignau on motorcycle No.HR-19C-3658. On their return journey from village Gignau to Dhigawa, the said motorcycle was being driven by Rajinder and Vikram and Raja @ Raj Kumar were pillion riders. At about 7.00 p.m., when they reached near the fields of Partap Singh, in the meanwhile, a car bearing registration No. HR-18A-6941 being driven by its driver

rashly, negligently and at a high speed came from Bhiwani side and struck against their motorcycle. Due to impact of the accident, the occupants of the motorcycle sustained multiple and grievous injuries on their person. They were removed to CHC Loharu for treatment, where Rajinder succumbed to his injuries, whereas Raja @ Raj Kumar and Vikram were referred to General Hospital, Bhiwani. On the statement of Ramotar brother of deceased Rajinder, an FIR No. 150 dated 11.09.2011, under Sections 279/337/304-AIPC was registered against respondent no.1 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 53 years of age at and he was earning Rs.40,000/- per month.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimants. 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 53 years, multiplier of 11 would be applicable, to calculate the amount of compensation payable to the claimants. Hence, Tribunal assessed the compensation as under:

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.5400/-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(ii)	1/3 rd deducting from (i) towards personal expenses	Rs.5,400-1,800=Rs.3,600/-
(iii)	Multiplier applied	Rs.3,600X12X11=4,75,200
(iv)	Compensation towards last rites and funeral expenses and loss of consortium	Rs.20,000/-
	Total Compensation	Rs. 4,95,200/-

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. 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:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs. 5400/-
(ii)	10% added in (i) towards future prospects	Rs.5,400 +5,40=Rs.5,940/-
(iii)	1/3 rd deducting from (ii) towards personal expenses	Rs.5,940-1,980= Rs.3,960/-
(iv)	Multiplier applied	Rs.3,960X12X11= 5,22,720/-
(v)	Compensation towards conventional heads	Rs. 70,000/-
	Total reassessed compensation	Rs.5,92,720/-
	Enhanced amount of compensation	Rs.5,92,720 -4,95,200=Rs.97,520/-

The enhanced amount of compensation of **Rs.97,520/-** 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.

09.03.2018

Riya Grover

(RITU BAHRI)

JUDGE

Whether speaking/reasoned

Whether reportable

Yes

No