

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

F.A.O No.5597 of 2014

Date of decision:- 15.02.2018

Jan Mohammad and Anr

...Appellants

Versus

Tofiq and others

...Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Bhagyashri, Advocate for
Mr. Naveen S. Bhardwaj, Advocate,
for the appellant.

Mr.Arjun Atri, Advocate,
for respondent No. 1.

Mr. Punit Jain, Advocate,
for respondent No. 3.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Palwal (hereinafter referred to as 'the Tribunal') vide award dated 01.02.2014, on account of death of Siraju in a motor vehicular accident which took place on 14.07.2011.

FACTS NOT IN DISPUTE

Brief facts of the case are that, On 14.07.2011, Siraju, since deceased, was travelling in dumper bearing Registration No. HR55-3180 from Nangal Rajasthan to Pali Crasher Zone District Faridabad loaded with stones and when around 4 a.m. Reached at MMTC Pump India Limited Company near Rojka Meo, in the meanwhile ,the offending dumper bearing registration No. HR55E-3707 driven by respondent NO. 1 in a rash and negligent manner came from behind and

struck against their dumper in the course of overtaking it. As a result thereof, their bumper bearing registration No. HR-55N-3180, turned turtle and the deceased fell down and came underneath it and succumbed to his injuries at the spot. In this regard, an FIR No. 242 dated 15.07.2011 under Sections 279, 337, 304-A/427 of IPC 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 22 years of age at and he was earning Rs.5,000/- per month being a conductor.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimants. As per the law prevalent at that time, Tribunal assessed the compensation as under:

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs. 3,600/-
(ii)	1/2 nd deducting from (i) towards personal expenses	Rs.3,600-1,800=Rs.1,800/-
(iii)	Multiplier applied	Rs.1,800X12X13=2,80,800/-
(iv)	Compensation towards last rites and funeral expenses	Rs.10,000/-
	Total Compensation	Rs.2,90,800/-

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 and salary of the deceased is required to be enhanced as per the Minimum Wages Act as it was on lower side as per the Tribunal findings, compensation reassessed as under:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs.5,000/-
(ii)	1/2 nd deducting from (i) towards personal expenses	Rs.5,000 -Rs. 2,500= Rs.2,500/-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(iii)	40% added towards future prospects	Rs. 2,500+1000=3,500/-
(iii)	Multiplier applied	Rs.3,500X12X18= 7,56,000/-
(iv)	Compensation towards conventional heads	Rs. 30,000/-
	Total reassessed compensation	Rs.7,86,000/-
	Enhanced amount of compensation	Rs.7,86,000 -2,90,800=Rs.4,95,200/-

The enhanced amount of compensation of **Rs.4,95,200/-** 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.

15.02.2018
Riya Grover

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No