

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

**FAO No. 3399 of 2016
Date of decision:- 08.05.2018**

Suman Devi and ors.

...Appellants

Versus

Jasmeet Singh and another

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Ashit Malik, Advocate,
for the appellants

Ms. Vandana Malhotra Advocate
for respondent No. 2-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, Kaithal (for short, 'the Tribunal') to the tune of Rs.13,80,520/- vide impugned award dated 21.10.2015.

2. The facts which are not in dispute are that on 11.01.2015, deceased-Satish Kumar was going towards village Sangatpura from village Budhakhera on his motorcycle bearing registration No. HR-08R-4902 make Hero HF Delux, in the meantime when he reached near village Sangatpura, a car bearing registration No. HR-31-F-1722 being driven by respondent No. 1 rashly and negligently came from opposite side and struck against the motorcycle of the deceased. As a result of which Satish fell down on the road and sustained grievous injuries. He succumbed to his injuries. F.I.R

No. 05 dated 12.01.2015 was registered at P.S. Sadar Kaithal against respondent No. 1.

3. As per the Tribunal, the deceased-Satish Kumar in the present case was 33 years old at the time of the accident. The Tribunal took the income of the deceased at Rs.8580/- per month and 1/4th were deducted towards personal expenses and thereafter, applied the multiplier of 16, in view of ***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77.*** The claimants were awarded Rs.20000/- for the last rites, Rs.50000 on account of loss of love and affection and Rs.75,000/- towards loss of consortium. The total compensation awarded to the claimant was Rs.13,80,520/-. However, the learned Tribunal has held that it was a case of contributory negligence and held that the claimants are entitled to 50% of the compensation to be paid by respondents jointly and severally.

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 be enhanced, as no future prospects were granted.

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. Reference at this stage can be made to a 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 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:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Income	Rs.8580/- per month
(ii)	40% of (i) above to be added as future prospects=	Rs.8580+Rs.3432=Rs.12012/- per month
(iii)	1/4 th of (ii) deducted as personal expenses of the deceased=	Rs.12012-Rs.3003=Rs.9009/- per month
(iv)	Compensation after multiplier of 16 is applied	Rs.9009X 12 X 16= Rs.17,29,728/-
(v)	Conventional heads (Loss of estate and funeral expenses)	Rs.70,000/-
	Total Compensation awarded	Rs.17,99,728/-
	Enhanced amount of compensation	Rs.17,99,728-Rs.13,80,520=Rs.4,19,208/- rounded off to Rs.4,19,000/-

9. The enhanced amount of compensation of Rs.4,19,,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. The appellants are only entitled to half of the compensation as held by the Tribunal.

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

08.05.2018

G Arora

Whether speaking/reasoned
Whether reportable

(RITU BAHRI)
JUDGE

Yes
No