

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO No.6238 of 2014

Date of Decision: 16.03.2018

Ram Dass and others

....Appellants

V/S

Prem Raj and Anr

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present : Mr.Aman Priye Jain, Advocate,
for the appellants.

RITU BAHRI, J.(Oral)

CM Nos. 16982 and 16981-CII of 2014

For the reasons mentioned in the applications, same are allowed and delay of 12 days in filing the appeal and 49 days in re-filing the appeal are condoned.

Accordingly, both the applications stands disposed of.

Main Case:

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Gurgaon (hereinafter referred to as 'the Tribunal') vide award dated 21.11.2013, on account of death of Reena in a motor vehicular accident which took place on 26.01.2013.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 26.01.2013, Reena, since deceased, alongwith her husband and son had come to Dhani of Shikopur to celebrate the birthday of one Yash. They started their return to village Shikohopur at about 8.35 P.M.,on their motorcycle. They had been going at

slow speed and on left side of the road. When they reached near the gate of Supertek project, in the meantime car baring No. HR-26-AT-0015 (hereinafter referred to offending vehicle) which was being driven by respondent no. 1 in rash and negligent manner and at high speed came from back side and struck with the motorcycle of deceased as a result of which deceased and petitioners Nos. 1 and 2 received injuries. In this regard, an FIR Ex.P14 has been registered under Sections 279/337/304A /427 IPC.

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 35 years of age.

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 35 years, multiplier of 16 would be applicable, to calculate the amount of compensation payable to the claimants. Hence, Tribunal awarded the compensation as amount of Rs.10,05,000/- to the claimant on account of death of Reena.

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs. 60,000/- per annum
(ii)	1/3 rd deducted towards personal expenses	Rs.60,000-20,000=40,000/-
(iii)	Multiplier applied	Rs.40,000X16= 4,80,000/-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(iv)	Compensation towards loss of consortium	Rs. 1,00,000/-
(v)	Compensation towards love and affection	Rs.4,00,000/-
(vi)	Compensation towards last rites and funeral expenses	Rs.25,000/-
	Total Compensation	Rs.10,05,000/-

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

In the present appeal parties are not in dispute with the findings of issue no. 1 that accident took place due to the sole rash and negligent driving of respondent No. 1.

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

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 income of the deceased taken as Rs.7,000/- per month and reassessed amount as under:-

Sr. No.	Heads	Calculations
(i)	Salary	Rs. 84,000/- per annum (7000X12)
(ii)	40% added in (i) towards future prospects	Rs.84,000+33,600=Rs.1,17,6,00/-
(iii)	1/3 rd deducting from (ii) towards personal expenses	Rs.1,17,600 -Rs. 39,200= Rs.78,400/-
(iv)	Multiplier applied	Rs.78,400X16= 12,54,400/-
(v)	Compensation towards conventional heads	Rs. 70,000/-
	Total reassessed compensation	Rs.13,24,400/-
	Enhanced amount of compensation	Rs.13,24,400-10,05,000=3,19,400/-

The enhanced amount of compensation of **Rs.3,19,400** /- 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.

16.03.2018
Riya Grover

(RITU BAHRI)
JUDGE

Whether speaking/reasoned Yes
Whether reportable No