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

F.A.O No. 6262 of 2014
Date of decision:-03.04.2018

Nirmala Devi and others ...Appellants

Versus

Parveen Kumar and Others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Gopal Sharma, Advocate, for the appellants.

Mr. Rajbir Singh, 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, Rewari (hereinafter referred to as 'the Tribunal') vide award dated 17.12.2013, on account of death of Ram Chandra Singh in a motor vehicular accident which took place on 07.07.2012.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 07.07.2012, at about 2.30 pm, Ram Chandra, since deceased, was going on foot to attend his duty and when he reached near the cut of Sector 6, the offending vehicle came driven in a rash and negligent manner and at a very high speed by respondent no.1 from the side of Jaipur and hit Ram Chandra Singh. Due to this accident, he fell on the road and was immediately taken to JMD Hospital, Dharuhera and from there he was taken to Park Hospital where he was declared brought dead. This matter was reported to Police vide FIR No. 267 dated 07.07.2012 for the offence under Sections 279 and 304 A of IPC at P.S. Dharuhera against respondent No.1 was registered.

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 52 years of age and he was earning Rs.50,669/- per month by working in Hero Motocrop Limited Dharuhera.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimants. Hence, Tribunal assessed the compensation as under:

Sr. No.	***Heads***	***Calculations***
(i)	Income	Rs. 20,083/-Per month
(ii)	1/3rd deducting from (i) towards personal expenses	Rs.20,083-6694=Rs.13,389/-
(iii)	Multiplier applied	Rs.13,389X12X11=17,67,348/-
(iv)	Compensation towards last rites and funeral expenses and loss of consortium	Rs.5,000/-
(v)	Compensation towards loss of consortium, love and affection	Rs. 25,000/-
(vi)	Compensation towards loss of estate	Rs.5,000/-
(vii)	Compensation towards medical expenses	Rs.21,171/-
	Total Compensation	Rs.18,23,519/-

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. To prove the facts of the case, Learned counsel for the appellant has drawn attention on Exhibit P8 dated 17.08.2012 which is placed on record in the Lower Court Record and stated that deceased Ram Chandra Singh, Operator, was under regular employment of Motocrop ltd. from 26.09.1995 to 07.07.2012 and salary drawn by him in the month of June was Rs.50,669/-per month. He further stated that while assessing the income of the deceased Tribunal took the salary of the deceased Rs.20,083/- per month which is on lower side.

However, learned Counsel for the Appellant has also placed attention upon the salary slips of the deceased for the month of May and June 2012 as Ex. R1 and Ex.R2 respectively which are shown in the LCR. Since the accident took place on 17.04.2012, salary of 1st June 2012 Ex. R2 will be taken for reassessing the amount of compensation. Total salary of the deceased at that time was Rs. 5,1373/- and from this income tax amount of Rs.1386/-, Dress maint. Allowance Rs.497/- and Conv. Allowance Rs.2,238/- have been deducted and net salary comes to Rs. 4,7252/-. Hence this court reassess the salary of the deceased as Rs. 47,252/- keeping in view the salary slip as Ex. R2.

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 t***he 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:-

Sr. No.	***Heads***	***Calculations***
(i)	Income	Rs. 47,252/-
(ii)	10% added in (i) towards future prospects	Rs.47,252 +4725=Rs.51,977/-
(iii)	1/3rd deducted from (ii) towards personal expenses	Rs.51,977-17326= Rs.34,651/-
(iv)	Multiplier applied	Rs.34,651X12X11= 45,73,932/-
(v)	Compensation towards conventional heads	Rs. 70,000/-
	Total reassessed compensation	Rs.46,43,932/-
	Enhanced amount of compensation	**Rs.46,43,932 -18,23,519 =Rs.28,20,413/-**

The enhanced amount of compensation of **Rs.28,20,413/-** 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.

03.04.2018
Riya Grover

(RITU BAHRI)
JUDGE

Whether speaking/reasoned Yes
Whether reportable No

Riya
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