IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O No. 748 of 2014
Date of decision:- 07.05.2018

Suman Verma and ors. ...Appellants

Versus

Salaudeen and others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Inderjit Sharma, Advocate, for the appellants

Mr. V.B. Aggarwal, Advocate
for respondent Nos. 1 and 2.

Mr. Ashwani Talwar, Advocate
for respondent No. 3

Mr Subhash Goyal, Advocate
for respondent No. 8.

RITU BAHRI J. (Oral)

1. The present appeal has been preferred by the claimant-appellant, seeking enhancement of the amount of compensation awarded by the learned Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhari (for short, 'the Tribunal') to the tune of Rs.63,01,520/- vide impugned award dated 07.05.2013.

2. The facts which are not in dispute are that on 24.07.2008, Sunil Kumar along with his friends Rakesh Verma and Kamal Bansal was travelling in an Indigo Car bearing registration No. HR-02S-2586. On the way near Sher-e-Punjab Dhaba situated in the area of village Janetpur, Tehsil Dera Bassi, District Patiala, a truck bearing registration No. HR-37-B-9567 was lying parked on the road without switching on its rear light or parking light and without giving any indication in any manner about its

parking. It was all darkness on the road. The driver of the car tried his best to avoid the accident but the car struck against the truck. All the occupants of the car received grievous injuries and died on the spot. Amit Bindal and Amrinder Singh witnessed the accident as they were moving in their separate car. F.I.R No. 96 dated 25.07.2008 was also registered in this regard under Sections 283/304-A IPC.

3. As per the Tribunal, the deceased-Rakesh in the present case was 35 years 10 months and 06 days at the time of the accident. The Tribunal took the income of the deceased at Rs.5,58,357/- per annum and 1/4th was deducted towards personal expenses and thereafter, applied the multiplier of 15, in view of ***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77.*** The claimants were awarded Rs.5000/- for the last rites and Rs.10000 towards loss of consortium and Rs.5000/- towards loss of estate. The total compensation awarded to the claimant was Rs.63,01,520/-.

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 the enhanced, as the Tribunal firstly has not given the future prospects and secondly, the income has been taken on the lower side.

5. Learned counsel for the appellant contends that the gross income of the deceased for the financial year 01.04.2005 to 31.03.2006 was Rs.5,24,449/-, for the financial year 01.04.2006 to 31.03.2007 was Rs.8,64,535/- and for the financial year 01.04.2007 to 31.03.2008 was Rs.9,74,964/- and the official of the Income Tax department has further proved the income tax returns Ex P2 and P3 of deceased Rakesh Verma. However, the learned Tribunal had come to a conclusion that since the

claimants have filed the income tax return of the deceased after his death, the same cannot be taken into consideration.

5. On the other hand, the learned counsel for the respondent-Insurance Company has vehemently opposed the present appeal and states that the Tribunal was right in taking the income of the deceased at Rs.5,58,357/- per annum.

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

7. The learned Tribunal has rightly taken the deceased at Rs.5,58,357/- per annum but has erred in law in not giving future prospects. 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:-

Sr. No.	***Heads***	***Calculations***
(i)	Salary	Rs.558357/- per annum
(ii)	40% of (i) above to be added as future prospects=	Rs.558357+Rs.223342=Rs.781699/-per annum

Sr. No.	*Heads*	*Calculations*
(iii)	1/4th of (ii) deducted as personal expenses of the deceased=	Rs.781699-Rs.195424=Rs.586275/- per annum
(iv)	Compensation after multiplier of 15 is applied	Rs.586275 X 15= Rs.87,94,125/-
(v)	Conventional heads (Loss of estate, loss of estate and funeral expenses)	Rs.70,000/-
(vi)	Total Compensation awarded	Rs.88,64,125/-
	Enhanced amount of compensation	**Rs.88,64,125-Rs.63,01,520=Rs.25,62,605/- rounded off to Rs.25,63,000/-**

9. The enhanced amount of compensation of Rs.25,63,000/- 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.

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

07.05.2018 **(RITU BAHRI)**
G Arora ***JUDGE***

Whether speaking/reasoned ***Yes***
Whether reportable ***No***