IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 5002 of 2016 &
Cross Objection No. 185-CII of 2017 (O&M)
Date of decision:- 22.03.2018

Oriental Insurance Co. Ltd. ...Appellant

Versus

Devraj and others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Sanjeev Pabbi, Advocate
for the appellant

Ms. Amandeep Kaur, Advocate
for cross objectors

RITU BAHRI J. (Oral)

FAO No. 5002 of 2016 & Cross Objection No. 185-CII of 2017

1. Appeals and cross objections, as noticed above, are being disposed of by this common judgment, having arisen out of the impugned Award dated 21.04.2016 passed by the learned Motor Accident Claims Tribunal, Mohali.

Facts not in dispute

2. On 16.03.2014, Kiran Bala @ Kiran Devi @ Pooja was going to road leading from Ladwa to Balachor via Banur along with her mother Indro Devi while sitting in a car which being driven by her father. They were being followed by Rattan Lal along with others in a separate car. At sales tax barrier, their car was being stopped by one Ashok Kumar who was standing with his wife Sarla and they asked for a lift in their car. After they boarded the car, when they reached on the bridge, in the meantime, a bus

bearing registration No. PB-11-AT-9020 came at a high speed from the opposite side and hit against the above said car. All the occupants of the car received serious injuries but Kiran Bala @ Kiran Devi @ Pooja, Indro Devi, Ashok Kumar and Sarla died on the spot. F.I.R was also registered in this regard.

Arguments Advanced

3. On the one hand, learned counsel for the appellant-Insurance Company argued that the compensation awarded by the learned Tribunal deserves to be modified as the deceased was unmarried daughter of respondent No. 1 but the Tribunal has deducted 1/3rd in place of 50% towards personal expenses. Further future prospects have also be reduced from 50% to 40%.

4. On the other hand, learned counsel for the cross objectors contends that the compensation awarded by the learned Tribunal is on the lower side and deserves to the enhanced

COMPENSATION ASSESSED BY THE MACT

Sr. No.	***Heads***	***Calculations***
(i)	Monthly income	Rs.7500/- per month
(ii)	50% Future Prospects	Rs.7500+ Rs.3750=Rs.11250/-
(ii)	Loss of dependency 1/3rd	Rs.11250-3750=Rs.7500/-
(iv)	Compensation after multiplier of 18 is applied	7500X12X18=Rs.16,20,000/-
(v)	Loss of love and affection	Rs.1,00,000/-
(vi)	Compensation on account of funeral expenses	Rs.25,000/-
	Total Compensation awarded	Rs.17,45,000/-

5. Feeling dissatisfied with the impugned award, appellant-Insurance company and cross objectors have preferred the present appeal .

REASSESSED COMPENSATION

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

case filed.

7. The appeal preferred by the Insurance Company is to be allowed whereas the cross objections filed by claimants-respondent Nos. 1 to 4 for enhancement of the amount is liable to be dismissed in view of 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 deceased was 25 years and her education qualification was M.A., B.ED and thus her income can be taken at Rs.10,000/- per month, keeping in view her qualification. The compensation is being reassessed as per the judgments mentioned above:-

Sr. No.	***Heads***	***Calculations***
(i)	Monthly income	Rs.10000/- per month
(ii)	40% Future Prospects	Rs.10000+ Rs.4000=Rs.14000/-
(ii)	Loss of dependency ½	Rs.14000-7000=Rs.7000/-
(iv)	Compensation after multiplier of 18 is applied	7000X12X18=Rs.15,12,000/-
(v)	Conventional heads (Loss of estate and funeral expenses)	Rs.30,000/-
(vi)	Total Compensation to be awarded now	Rs.15,42,000/-

09. Resultantly, the compensation of Rs.15,42,000/- shall be

payable by the appellant-Insurance Company within a period of forty five days from the date of receipt of certified copy of this order. The enhanced amount of compensation shall carry 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. With the aforesaid modification in the impugned award, the appeal preferred by the appellant-Insurance Company is allowed to the above extent and the cross objection filed by the claimant-respondent Nos. 1 to 4 stands dismissed.

March 22, 2018 (***RITU BAHRI***)
G Arora ***JUDGE***

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