IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 7406 of 2016
Date of decision:- 22.03.2018

United India Insurance Co. Ltd. ...Appellant

Versus

Smt. Pooja and others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. D.P. Gupta, Advocate, for the appellants

Mr Ram Pal Verma, Advocate
for respondent No. 1 to 4

RITU BAHRI J. (Oral)

1. The present appeal has been preferred by the Insurance company-appellant, seeking modification of the award passed by the learned Motor Accident Claims Tribunal, Sonipat (for short, 'the Tribunal') granting compensation to the claimants to the tune of Rs.35,43,750/.

2. The facts which are not in dispute are that on 06.03.2015, when the deceased-Ajay along with his cousin Pradeep was going to village Kumaspur, he was hit from back by a motorcycle bearing registration No. HR-77-4212 being driven by respondent No. 1 in a rash and negligent manne. Due to this impact, he received serious injuries and during his treatment, he expired on 28.03.2015 at PGIMS, Rohtak. F.I.R was also registered in this regard.

3. As per the Tribunal, the deceased-Ajay in the present case was 35 years old at the time of the accident. The Tribunal took the income of the deceased at Rs.2,95,000/- 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.1 lacs towards loss of consortium, Rs.1 lac towards towards loss of love and affection and Rs.25000/- for the last rites. The total compensation awarded to the claimant was Rs.35,43,750/-.

4. The learned counsel for the appellant contends that the compensation awarded by the learned Tribunal deserves to be reduced in view of the 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.".

5. On the other hand, the learned counsel for the claimant-respondent Nos. 1 to 4 has vehemently opposed the present appeal.

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

7. In the present case, the compensation is being reassessed as per the judgments mentioned above:-

Sr. No.	***Heads***	***Calculations***
(i)	Salary	Rs.2,00,000/- per annum
(ii)	40% of (i) above to be added as future prospects=	200000+80000=Rs.2,80,000/- per annum
(iii)	$1/4^{th}$ of (ii) deducted as personal expenses of the deceased=	280000-70000=Rs.210000/- per annum
(iv)	Compensation after multiplier of 15 is applied	Rs.210000X 15= Rs.31,50,000/-

Sr. No.	***Heads***	***Calculations***
(v)	Conventional heads (Loss of estate and funeral expenses)	Rs.70,000/-
(vi)	Total Compensation to be awarded now	Rs.32,20,000/-

8. Accordingly, the award stands modified to the above extent and the present appeal is partly allowed. However, the appellant is directed to disburse the compensation amount of Rs.32,20,000/- to the claimants within a period of four weeks from the date of receipt of certified copy of this order and inform this Court. The claimants 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. It is hereby directed that the amount of Rs.25,000/- deposited by the appellant, at the time of filing of appeal in the Registry of this Court, be returned to him.

22.03.2018 **(RITU BAHRI)**

G Arora ***JUDGE***

Whether speaking/reasoned Yes
Whether reportable No