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

F.A.O No.1988 of 2017
Date of decision:- 09.03.2018

National Insurance Company ltd. ...Appellant

Versus

Anita Rani and Others ...Respondents

F.A.O No. 2437 of 2017
Date of decision:- 09.03.2018

Anita Rani and Others ...Appellants

Versus

Harish Kumar and Others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Naresh Kaushik, Advocate,
for the appellant-Anita Rani and others.

Mr. V. Ramswaroop, Advocate,
for the Insurance Company.

Mr. Ashwani Arora, Advocate,
for respondent Nos. 5 and 6 in FAO No. 1988 of 2017
and for respondent Nos. 1 and 2 in FAO No. 2437 of 2017.

RITU BAHRI J. (Oral)

Both the appeals, as noticed above, are being disposed of by this common judgment, having arisen out of the impugned award dated 26.07.2016 passed by the learned Motor Accident Claims Tribunal, Panchkula.

Facts not in dispute

The facts which are not in dispute are that on 02.09.2015, at about 9.00 A. M., Sangat Ram, since deceased, alongwith his daughter namely Sonam Kansal (claimant No.3) was going to his office i.e. F.C. I., at Sector 4, Panchkula on Scooter Activa bearing registration No. HR-03-P-4970 by driving on the correct left hand side of the road at a moderate speed and after following all the traffic norms, that when they reached in front of Tau Devi Lal Stadium, in the meanwhile, a Mahindra Pick Up bearing No. CH-03-Q-1478 (hereinafter in brevity, referred to as the offending vehicle), came from the back side, driven by respondent No.1 rashly, negligently, at a very high speed and without blowing any horn and straightway hit the Activa of the deceased. As a result of which both the occupants of the Activa scooter fallen down on the road and the head of the deceased was run over by the offending vehicle. However, claimant No.3 Sonam sustained multiple injuries in the said accident. In this regard, an FIR No. 311 dated 02.09.2015 under Sections 279, 304 A IPC was registered in P. S. Sector 5, Panhkula against respondent No.1 on the statement of Sonam.

Consequently, claimants-appellants filed a claim petition before the Tribunal.

<u>COMPENSATION ASSESSED BY THE MACT</u>

On the basis of evidence led by the parties, the Tribunal came to a conclusion that the accident had been caused due to rash and negligent act of truck driver/respondent No.1. The deceased was 50 years of age and was Manager in Food Corporation of India, Sector 4, Panhckula as a regular employee and was drawing the gross salary of Rs.71,151/- per month.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimants. Tribunal assessed the income of the deceased at Rs.71,151/- per month. As per the law laid down in

Sarla Verma and others vs. Delhi TransportCorporation and another, 2009 (3) RCR (Civil) Page 77, multiplier of 11 be applied and, compensation assessed by the Tribunal as under :

Sr. No.	***Heads***	***Calculations***
(i)	Salary	Rs. 71,151/- per month
(ii)	15% added towards future prospects	Rs.71,151+10,672=81,823/- per month
(iii)	30% deducted as income tax	Rs.81,823X12=9,81,876-2,94,562=6,87,314/-
(iv)	1/4th to be deducted towards personal expense	Rs.6,87,314-1,71,828=5,15,486/-
(v)	Multiplier applied	Rs.5,15,486X11= 56,70,346/-
(vi)	Compensation towards last rites and transportation	Rs.25,000/-
(vii)	Compensation towards loss of estate	Rs.10,000/-
(viii)	Compensation towards loss of love and affection	Rs.1,00,000/-
(ix)	Compensation towards loss of consortium	Rs.1,00,000/-
	Total Compensation Awarded	**Rs.59,05,346/-**

The learned counsel for the claimants-appellants contends that the compensation awarded by the learned Tribunal is on the lower side and deserves to be enhanced.

On the other hand, the learned counsel for the Insurance Company stated that amount awarded by the Tribunal under the conventional heads as well as under the other heads is on the higher side in view of the latest judgement of the Hon'ble Supreme Court in 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.***

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

REASSESSED COMPENSATION

In view of the latest judgment judgment of Hon'ble the Supreme Court in case titled as ***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 view of the said judgment, the compensation is being recalculated as under:

Sr. No.	***Heads***	***Calculations***
(i)	Salary	Rs. 71,151/- per month
(ii)	15% added towards future prospects	Rs.71,151+10,673=81824/-
(iii)	30% deducted as income tax	Rs.81824 X12=9,81,888-2,94,566=6,87,322/-
(iv)	1/4th to be deducted towards personal expense	Rs.6,87,322 -1,71,831=5,15,491/-
(v)	Multiplier applied	Rs.5,15,491X11= 5,67,0401/-
(vi)	Compensation towards conventional heads	Rs.70,000/-
	Total Compensation Awarded	**Rs.57,40,401/-**
	Total amount	**Rs.59,05,346-57,40,401=1,64,945/-**

The award dated 26.07.2016 is modified to the extent that the amount awarded of ` **59,05,346**/- is reduced to ` **57,40,401**/-. 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 amount of compensation shall carry interest @ 7.5% per annum from the date of filing of the claim petition, till its realization.

Accordingly, both the present appeals are disposed of to the above extent.

09.03.2018 **(RITU BAHRI)**
Riya Grover ***JUDGE***

Whether speaking/reasoned Yes
Whether reportable No