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

**F.A.O No.2458 of 2017
Date of decision:- 09.03.2018**

Joginder ...Appellant

Versus

Vinod and others ...Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Amit Khatkar, Advocate,
for the appellant.

Mr. Vinod Gutpa, Advocate,
for Insurance Company.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Sonepat (hereinafter referred to as 'the Tribunal') vide award dated 21.10.2016, on account of death of Bhim Singh in a motor vehicular accident which took place on 01.6.2015.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 01.06.2015 Rajbir, son of deceased Bhim Singh alongwith his father deceased Bhim Singh had gone for a walk in the morning at about 4.00 A.M., and his father deceased Bhim Singh was half of Khilla ahead of him. In the meantime at about 4.30 AM, one Ecco car bearing registration No.HR42C-3758 came from the side of Sonepat being driven by its driver in a rash and negligent manner and gave a hit to deceased Bhim Singh and due to the impact Bhim Singh dell down on the road and suffered multiple grievous injuries. The car driver fled away from the place of occurrence and number of the car was noted by one passerby, who told the same to the complainant. Thereafter, injured was shifted to BPS Hospital Khandpur and succumbed to the injuries sustained in the accident. FIR was got registered on the statement of Rajbir. It has been pleaded that accident was caused due to rash and negligent driving of respondent while driving the ecco car bearing registration No. HR42 C 3758. It has been pleaded that both the petitioners were dependent on income of deceased and there is no one to look after the petitioners, since the deceased was only earning member of his family. It has been pleaded that deceased was having six children but five are married and are living separately . The petition has been filed only by petitioners,

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 on account of negligent driving of offending vehicle by respondent No.1. Claimants deposed that at the time of accident/death, deceased was 62 years of age and he was earning Rs.6,900/- per month as he was getting pension.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimants. As per the law laid down in ***Sarla Verma and others vs. Delhi TransportCorporation and another*** , 2009 (3) RCR (Civil) Page 77, in case of deceased's age of 62 years, multiplier of 7 would be applicable, to calculate the amount of compensation payable to the claimants. Hence, Tribunal assessed the compensation as under:

Sr. No.	***Heads***	***Calculations***
(i)	Monthly income	Rs. 6,000/-
(ii)	1/3rd deducting from (i) towards personal expenses	Rs.6,000-2,000=Rs.4,000/-
(iii)	Multiplier applied	Rs.4,000X12X7=3,36,000/-
(iv)	Compensation towards last rites and funeral expenses	Rs.25,000/-
	Total Compensation	Rs. 3,61,000/-

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. 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 and salary of the deceased is required to be enhanced as it was on lower side as per the Tribunal findings, compensation reassessed as under:-

Sr. No.	***Heads***	***Calculations***
(i)	Monthly income	Rs.7,500/-p.m.
(ii)	1/3rd deducting from (i) towards personal expenses	Rs.7,500 -Rs. 2,500= Rs.5,000/-
(iii)	Multiplier applied	Rs.5,000X12X7= 4,20,000/-per annum
(iv)	Compensation towards conventional heads	Rs. 70,000/-
	Total reassessed compensation	Rs.4,90,000/-
	Enhanced amount of compensation	**Rs.4,90,000 -3,61,000=Rs.1,29,000/-**

The enhanced amount of compensation of **Rs.1,29,000/-** 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.

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

Whether speaking/reasoned Yes
Whether reportable No