

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

F.A.O No. 2858 of 2017

Date of decision:- 13.03.2018

Shinderpal Kaur

...Appellant

Versus

Ranjit Singh and Others

...Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr.Rajbir Singh, Advocate,
for the appellant.

Mr. A. K.Goyal, Advcoate,
for respondent Nos.2 and 3 (PRTC)

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Sangrur (hereinafter referred to as 'the Tribunal') vide award dated 09.08.2016, on account of death of Jagwinder Singh son of Shinderpal Kaur in a motor vehicular accident which took place on 01.09.2015.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 01.09.2015, Jagwinder Singh and Hardeep Singh were coming back to their village Khadial on Splendour motorcycle bearing registration No.PB-13U-0269 after attending their classes at Asra College. Jagwinder Singh was driving the motorcycle and Hardeep Singh was pillion rider. At about 5 pm after crossing Phagguwala crossing when they reached near Gurdwara Sahib, Sunam Road, PRTC bus bearing registration No. PB-03AA 8017

being driven by respondent No. 1 in a rash and negligent manner came from the opposite site. The Said bus while overtaking the vehicle struck their motorcycle by coming on the wrong side. Respondent No.1 stopped the bus at some distance. Thereafter, he fled away from the spot alongwith the bus. Jagwinder Singh and Hardeep Singh both received multiple injuries. Their friends who were coming behind them arranged a vehicle with the help of people gathered at the spot and took both the injured to hospital. Jagwinder Singh was taken to Rajindra Hospital, Patiala from where he was referred to Amar Hospital, Patiala. He was further referred to Fortis Hospital, Mohali and from there to Government Medical College and Hospital, Sector 32, Chandigarh. Jagwinder Singh died on 04.09.2015 during the treatment at Chandigarh Hospital. In this regard, an FIR No. 73 dated 03.09.2015 under Sections 279/337/338/427 of Indian Penal Code, later on offence added under Section 304-A of the IPC was registered at Police Station Sadar, Sangrur against respondent No.1.

Consequently, claimant-appellant filed a claim petition before the Tribunal.

COMPENSATION ASSESSED BY THE MACT

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. Claimant deposed that at the time of accident/death, deceased was 23 years of age claimant also stated that deceased was sole bread earner of his family as his father had already expired on 10.06.2005. Besides selling milk, he was taking tuitions and was also studying in Asra College

doing B.Tech (Mechanical Engineering) there.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimants. As per law prevalent at that time or considering the qualification of the deceased and future prospects, Tribunal assessed the income of deceased at Rs.14,000/- per month. Hence, Tribunal assessed the compensation as under:

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs. 14,000/-
(ii)	1/2 nd deducting from (i) towards personal expenses	Rs.14,000-7,000=Rs.7,000/-
(iii)	Multiplier applied	Rs.7,000X12X18=15,12,000/-
(iv)	Compensation towards last rites and funeral expenses	Rs.5,000/-
(v)	Compensation towards transportation	Rs.10,000/-
(vi)	Medical Expenses	Rs.2,06,820/-
	Total Compensation	Rs.17,33,820/-

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

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs. 14,000/-
(ii)	40% added in (i) towards future prospects	Rs.14,000+5600=Rs.19,600/-
(iii)	1/2 nd deducting from (ii) towards personal expenses	Rs.19600-9,800= Rs.9,800/-
(iv)	Multiplier applied	Rs.9,800X12X18=21,16,800/-
(v)	Compensation towards conventional heads	Rs. 30,000/-
	Total reassessed compensation	Rs.21,46,800/-
	Enhanced amount of compensation	Rs.21,46,800 -17,33,820=Rs.4,12,980/-

The enhanced amount of compensation of **Rs.4,12,980/-** 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.

13.03.2018
Riya Grover

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>