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

**F.A.O No. 3072 of 2017
Date of decision:- 19.03.2018**

Raj Bala and Others ...Appellants

Versus

Jai Bhagwan and Others ...Respondents

***CORAM: HON'BLE MS. JUSTICE RITU BAHRI***

Present: Mr. Sunny Namdev, Advocate, for
Mr. Saurabh Dalal, Advocate,
for the appellants.

Mr. Lalit Garg, 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, Rohtak (hereinafter referred to as 'the Tribunal') vide award dated 07.11.2016, on account of death of Sunil in a motor vehicular accident which took place on 29.10.2015.

***FACTS NOT IN DISPUTE***

Brief facts of the case are that, on 29.10.2015, Sunil, since deceased, alongwith his cousin Vinod Kumar were going to Village Bandh on a motorcycle No., applied for. Vinod Kumar was driving the motorcycle and Sunil Kumar was Pillion rider. At about 7.00 p.m. When they reached on Hulla Heri Chetana road, a tractor attached with trolley bearing registration No. HR-11E/2575 (hereinafter referred to as the offending vehicle) loaded with fodder was being driven in the middle of the road at a very high speed and in a rash and negligent manner. On account of which, it hit against the motorcycle of Vinod

Kumar. As a result thereof, both of them fell down on the road alongwith their motorcycle and sustained multiple grievous injuries. They were shifted to General Hospital, Sonipat by passer-bye, where Sunil Kumar was declared brought dead. The accident took place on account of rash and negligent driving of the offending vehicle by respondent No. 1. In this regard, formal FIR Ex. P1 was registered.

Consequently, claimants-appellants 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. Claimants deposed that at the time of accident/death, deceased was 22 years of age. He was an agriculturist and diary farmer and was also working on petrol pump and was earning Rs.15,000/- per month from said vocations.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimants. No proof has been found regarding income of the deceased. In such a situation, income of the deceased for the purpose of determination of compensation, shall be taken as Rs.6,000/- per month being the Minimum Wages of an unskilled worker fixed by the State Government. 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 22 years, multiplier of 18 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) | Salary | Rs. 6000/- |
| (ii) | 1/2nd deducting from (i) towards personal expenses | Rs.6000-3000=Rs.3000/- |
| (iii) | Multiplier applied | Rs.3000X12X18=6,48,000/- |
| (iv) | Compensation towards last rites and funeral expenses | Rs.25,000/- |
| (v) | Compensation towards loss of love and affection | Rs.1,00,000/- |
| | Total Compensation | Rs. 7,73,000/- |

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.

***<u>REASSESSED COMPENSATION</u>***

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:-

| ***Sr. No.*** | ***Heads*** | ***Calculations*** |
|---|---|---|
| (i) | Salary | Rs. 6000/- |
| (ii) | 40% added in (i) towards future prospects | Rs.6,000 + 2,400=Rs.8,400/- |
| (iii) | 1/2nd deducting from (ii) towards personal expenses | Rs.8,400 -Rs. 4,200= Rs.4,200/- |
| (iv) | Multiplier applied | Rs.4,200X12X18= 9,07,200/- |
| (v) | Compensation towards conventional heads | Rs. 30,000/- |
| | Total reassessed compensation | Rs.9,37,200/- |
| | **Enhanced amount of compensation** | **Rs.9,37,200 -7,73,000=Rs.1,64,200/-** |

The enhanced amount of compensation of **Rs.1,64,200/-** 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.

19.03.2018 **(RITU BAHRI)**
***Riya Grover*** ***JUDGE***

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