

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

F.A.O No. 3368 of 2017

Date of decision:- 22.03.2018

Raj Bala and others

...Appellants

Versus

Ravinder Kumar and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Sandeep Kotla, Advocate
for the applicants-appellants

Mr. Abhinav Kalia, Advocate
for respondent Nos. 1 and 2.

Mr. M.B. Jain, Advocate
for respondent No. 3-Insurance company

RITU BAHRI J. (Oral)

C.M. No. 11120-CII-2017

For the reasons mentioned in the application, delay of 326 days
in filing of the appeal is hereby condoned.

The application stands disposed of.

F.A.O No. 3368-2017

1. The present appeal has been preferred by the claimants-appellants, seeking enhancement of the amount of compensation awarded by the learned Motor Accident Claims Tribunal, Fatehabad (for short, 'the Tribunal') to the tune of Rs.13,52,781/- vide impugned award dated 04.12.2015 on account of death of Ishwar Singh, who died in road accident on 15.09.2014 when a motorcycle Platina being driven by the driver struck into the middle of the motorcycle of the deceased F.I.R No. 399 dated 15.09.2014 under Section 279-304-A IPC was registered against the driver of the offending motorcycle.

3. As per the Tribunal, the deceased in the present case was 37 years old at the time of the accident. The Tribunal took the income of the deceased at Rs.6000/- per month and added 50% as future prospects. 1/4th was deducted towards personal expenses and 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.25000/- for the last rites, Rs.1,00,000/- were awarded towards loss of love and affection etc and Rs.12781 towards medical bills. The total compensation awarded to the claimant was Rs.13,52,781/-.

4. 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.

5. On the other hand, the learned counsel for the respondent-Insurance Company has vehemently opposed the present appeal in view 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.*** Learned counsel for the respondent-Insurance Company submits that in view of this judgment, the compensation will be reduced.

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

7. Reference at this stage can be made to a 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.”.

8. In view of the ***Pranay Sethi's case (supra)***, no ground is made out to interfere in the impugned award dated 04.12.2015, as the amount awarded towards future prospect will reduce to 40% from 50% and conventional heads will be reduced to Rs.70,000/- from Rs.1,25,000/-.

In view of the above factual position, the appeal is dismissed.

22.03.2018

G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No