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

**F.A.O No. 3860 of 2017
Date of decision:-18.04.2018**

Gurpreet Kaur and Others ...Appellants

Versus

Jasanjeet Singh and Others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Deepak Gupta, Advocate,
for the appellants.

Mr. Pardeep Goyal, Advocate,
for respondent No. 3-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, Bathinda (hereinafter referred to as 'the Tribunal') vide award dated 02.12.2016, on account of death of Mandeep Singh in a motor vehicular accident which took place on 08.08.2014.

FACTS NOT IN DISPUTE

Brief facts of the case are that, on 08.08.2014, deceased Mandeep Singh alongwith his friend Boota Singh was going to his fields on motorcycle bearing No. PB-08-BD-6867 on Bathinda-Rampura road. Mandeep Singh was driving the motorcycle and Boota Singh was the pillion rider. Time was around 9.00 A. M., when they reached in the area of HP Petrol Pump after crossing village Lehra Bega towards Rampura in the area of PS Nathana, a Swift car being driven by respondent NO.1 Jasanjeet Singh bearing registration No. PB-31J-0626 came from the side of Rampura at high speed and respondent No.1 while driving the same in a rash and negligent manner after crossing the truck struck the car against the motorcycle being driven by Mandeep

Singh. With the result, Mandeep Singh and Boota Singh fell down on the road and sustained multiple injuries. They were removed to Adesh Hospital, Bathinda, but Mandeep Singh was referred to Max Hospital, Bathinda due to critical condition where Mandeep Singh remain admitted w.e.f. 08.08.2014 to 11.09.2014. Thereafter, Mandeep Singh remained admitted at Badyal Multispeciality Hospital & Trauma Centre, Bathinda, w.e.f. 11.09.2014 to 26.09.2014 and ultimately, Mandeep Singh succumbed to injuries on 26.09.2014. In this regard, an FIR No. 129 dated 11.08.2014, under Sections 279/337/427 of IPC, was got registered at P. S. Nathana.

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 27 years of age and he was earning Rs.7.50/- lacs per annum by working as agriculturist. This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimants. In the absence of salary certificate, Tribunal took income of the deceased as Rs.7,500/- per month being a skilled labourer. Deceased Mandeep Singh was 27 years of age and as per the law laid down in ***Sarla Verma and others vs. Delhi TransportCorporation and another***, 2009 (3) RCR (Civil) Page 77, multiplier of 17 be applied and compensation assessed by the Tribunal as under : -

Sr. No.	*Heads*	*Calculations*
(i)	Income	Rs. 7,500/-Per month
(ii)	1/3rd deducting from (i) towards personal expenses	Rs.7,500-2,500=Rs.5,000/-
(iii)	30% added towards future prospects	Rs.5,000+1,500=6,500/-
(iv)	Multiplier applied	Rs.6,500X12X17=13,26,000/-
(v)	Medical Bills	Rs.6,64,712/-
(vi)	Compensation towards last rites and funeral expenses and transportation	Rs.24,288/-
(vii)	Compensation towards loss of consortium	Rs. 1,00,000/-
	Total Compensation	Rs.21,15,000/-

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. Parties are not in dispute with regard to findings on issue No. 1 that the accident occurred due to rash and negligent driving of respondent No.1. 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 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)	Income	Rs. 7,500/-
(ii)	40% added in (i) towards future prospects	Rs.7,500 +3,000=Rs.10,500/-
(iii)	1/3rd deducted from (ii) towards personal expenses	Rs.10,500-3,500= Rs.7,000/-
(iv)	Multiplier applied	Rs.7,000X12X17= 14,28,000/-
(v)	Compensation towards conventional heads	Rs. 70,000/-
(vi)	Compensation awarded towards medical bills Ex. Mark A to Mark E i.e.	Rs. 6,64,712/-(will remain same as granted by Tribunal)
	Total reassessed compensation	Rs.21,62,712/-
	Enhanced amount of compensation	**Rs.21,62,712 -21,15,000=Rs.47,712/-**

The enhanced amount of compensation of **Rs.47,712/-** 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.

18.04.2018 **(RITU BAHRI)**
Riya Grover ***JUDGE***

Whether speaking/reasoned Yes
Whether reportable No