IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

F.A.O No. 4157 of 2017
Date of decision:- 01.02.2018

Tarlochan Singh and Anr ...Appellants

Versus

Kulwinder Singh and ...Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Ayush Gupta, Advocate,
for the appellants.

Mr. Pardeep Goyal, Advocate,
for respondent No. 3- National Insurance Co.Ltd.

RITU BAHRI J. (Oral)

This appeal has been filed by the claimant-appellants seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Ludhiana (hereinafter referred to as 'the Tribunal') vide Award dated 24.05.2016, on account of death of Varinder Singh in a motor vehicular accident which took place on 14.10.2013.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 14.10.2013, the deceased was the pillion rider of the motorcycle bearing registration No. PB43-D-2749 being driven by Amninder Singh son of Kuldeep Singh, resident of village Hareon Khurd, P.S.Samrala, District Ludhiana. He took the lift from Amrinder Singh at Chawa turn, Samrala, for the bus stand village Nagra, District Ludhiana. At about 1.30 pm when they were at some distance from Deep Marriage Palace one three wheeler was going ahead to their motorcycle, then the offending vehicle i.e. Eicher Mini Truck/Tempo bearing registration No. JK-21-5264 being driven by respondent No. 1 in rash and negligent manner in a very high speed came from the opposite side i.e. Bagli

Kalan. On seeing the offending vehicle, Amninder Singh slowed down the speed of the motorcycle, but the respondent No.1 struck the offending vehicle against the motorcycle due to which the deceased receive grievous injuries on his head and he died at the spot. The accident took place due to rash and negligent driving of the respondent No. 1. The matter was reported to the Police and in this regard FIR No.180 dated 14.10.2013 was registered against respondent No. 1 under Sections 279/337/427 and 304A of IPC at Police Station Samrala District Ludhiana.

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 due to rash and negligent act of truck driver/respondent No.1. The deceased was 21 years of age and was student of 10+2 at the time of his death and was unmarried.

This finding was rightly given on the basis of FIR, and others documentary evidence led by the claimants. Tribunal assessed the income of the deceased at Rs.7,000/- per month. Admittedly, deceased was bachelor at the time of his death and as such 50% is to be deducted from his income towards his personal and living expenses and total annual dependancy of the claimants comes to Rs.3500X12-42,000/-. As per the law laid down in ***Sarla Verma and others vs. Delhi TransportCorporation and another***, 2009 (3) RCR (Civil) Page 77, multiplier of 18 be applied and, compensation assessed by the Tribunal as under :

Sr. No.	*Heads*	*Calculations*
(i)	Salary	Rs. 7000/- per month
(ii)	50% deducted towards personal expenses as he was bachelor	Rs.7000-3500=3,500/- per month
(iii)	Multiplier applied	Rs.3500X12X18= 7,56,000/-
(iv)	Compensation towards love and affection	Rs. 1,00,000/-
(v)	Funeral Expenses	Rs. 20,000/-
	Total Compensation Awarded	**Rs.8,76,000/-**

The learned counsel for the claimants-appellants contends that the compensation awarded by the learned Tribunal is on the lower side and deserves to the enhanced.

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

REASSESSED COMPENSATION

Reference at this stage can be made to a 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 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. 7000/- per month
(ii)	50% deducted towards personal expenses as he was bachelor	Rs.7000+3500=3,500/- per month
(iii)	40% towards future prospects	Rs.3500+1400=4,900/- per month
(iv)	Multiplier applied	Rs.4900X12X18= 10,58,400/-
(v)	Conventional heads	Rs. 30,000/-
	Total Compensation Awarded	**Rs.10,88,400/-**
	Enhanced amount of compensation	**Rs.10,88,400-8,76,000=2,12,400/-**

The enhanced amount of compensation of Rs.2,12,400/- shall be payable within a period of forty five days from the date of receipt of certified copy of this order. The appellants shall also get interest @ 9% per annum from the date of filing of the claim petition, in view of the judgment of Hon'ble the Supreme Court in a case of ***Kumari Kiran through her father Harinarayan vs. Sajjan Singh and others, 2015(1) SCC 539***. The 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.

01.02.2018 **(RITU BAHRI)**
Riya Grover ***JUDGE***

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