

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

F.A.O No. 4443 of 2017

Date of decision:- 01.02.2018

Gurtej Singh and anr

...Appellants

Versus

Bhajan Singh and Ors

...Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. J.S.Ghuman, Advocate,
for the appellants.

Mr. Neeraj Khanna, Advocate, for
Mr. Sandeep Suri, Advocate,
for respondent No.3-National 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 06.03.2017, on account of death of Arunveer Singh in a motor vehicular accident which took place on 08.11.2014.

FACTS NOT IN DISPUTE

Brief facts of the case are that on 08.11.2014 deceased Arunveer Singh and Kamaljit Singh son of Ajit Singh, who were students of B-tech , final year in Punjabi University , Patiala were coming on motorcycle from Mohali to Patiala afte coming to know about training programme at Mohali. The motorcycle was being driven by deceased Arunveer Singh and Kamaljit Singh was pillion rider. Ravinder Pal Singh was following them on a seprate motorcycle. Arunveer Singh was driving the motorcycle on left hand side of the road at a moderate speed. At about 7.00 PM when they reached at petrol pump Rooreke near maan Dhaba on Sirhind Patiala Road, a truckk

bearing registration NO.PB-13G-6662 was standing on the metaled portion of the road without parking lights or placing any reflector bricks stones branches of trees buning of fires or taking any other precaution to suggest the road users that truck was standing on metaled road. On account of flashing lights of vehicles coming from opposite side, Arunveer Singh could not notice that said truck which was standing in a negligent manner on the road and the motorcycle of Arunveer Singh struck against the rear side of the said truck. As a result of the impact, both the occupants of the motorcycle fell down and suffered multiple and grievous injuries including head injuries. Ravinderpal Singh took both the injured to Rajindra Hospital, Patiala, where the doctor declared both of them dead. According to the claimants the accident taken place due to wrong parking of the offending truck. The matter was reported to the Police and in this regard FIR No.108 dated 09.11.2014 under Sections 304-A,279,427 IPC was registered against respondent No. 1 at Police Station Mulepur.

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 B.Tec. Final year 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.10,000/- 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.5000X12=60,000/-. As per the law laid down in *Sarla Verma and others vs. Delhi Transport Corporation and another*, 2009 (3) RCR (Civil) Page 77, multiplier of 18 be applied and, compensation assessed by the Tribunal as under :

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs. 10000/- per month
(ii)	50% deducted towards personal expenses as he was bachelor	Rs.10000-5000=5000/- per month
(iii)	Multiplier applied	Rs.5000X12X18= 10,80,000/-
(v)	Compensation towards love and affection	Rs. 2,00,000/-(one lac to each claimant)
(vi)	Funeral Expenses	Rs. 25,000/-
	Total Compensation Awarded	Rs.13,05,000/-

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

In view of the latest judgment judgment of Hon'ble the Supreme Court in case titled as *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 view of the said judgment, 40% should be granted to the claimants towards future prospects. In the present case, the compensation is being reassessed and 40%future prospects granted to the claimants as per the judgments mentioned above:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Salary	Rs. 10000/- per month
(ii)	50% deducted towards personal expenses as he was bachelor	Rs.10000-5000=5000/- per month
(iii)	40% towards future prospects	Rs.5000+2000=7000/- per month
(iv)	Multiplier applied	Rs.7000X12X18= 15,12,000/-
(v)	Conventional heads	Rs. 30,000/-
	Total Compensation Awarded	Rs.15,42,000/-
	Enhanced amount of compensation	Rs.15,42,000-13,05,000=2,37,000/-

The enhanced amount of compensation of Rs.2,37,000/- 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

Riya Grover

(RITU BAHRI)

JUDGE

Whether speaking/reasoned

Whether reportable

Yes

No