

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

1. FAO No. 5812 of 2017

National Insurance Co. Ltd ...Appellants

Versus

Kavita Devi and others ...Respondents

2. FAO No. 8323 of 2017

Kavita Devi and others ...Appellants

Versus

Gulzar Singh and others ...Respondents

Date of decision:- 04.04.2018

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Vikas Chatrath, Advocate for
for the appellant in FAO No. 1181-2014

Mr. Madan Lal Saini, Advocate
for respondent Nos. 1 to 3 in FAO No. 5812 of 2017
and for the appellant in FAO No. 8323-2017

RITU BAHRI J. (Oral)

FAO No. 5812 and 8323 of 2017

Issue notice of motion in FAO No. 8323-2017

Mr. Vikas Chatrath, Advocate who is present in the Court
accepts notice on behalf of respondent No. 3/Insurance Company

1. The above said two appeals, as noticed above, are being
disposed of by this common judgment, having arisen out of the impugned
award dated 18.02.2017 passed by the learned Motor Accident Claims
Tribunal, Rupnagar (for short the Tribunal)

2. Brief facts of the case are that on 11.04.2016, Manjit Singh was
going to Nalagarh on his motorcycle bearing registration No. HP-11-9504

on the left side of the road. When he reached near village Sallewal, in the meantime, a Omni Bus No. HP-02-3983 came from Nalagarh side in a rash and negligent manner and struck against the motorcycle of the deceased, who fell down and received grievous injuries. He succumbed to his injuries in PGI Chandigarh. F.I.R No. 69 dated 11.04.2016 under Sections 279/337/304-A IPC.

3. As per the Tribunal, the deceased-Manjit Singh in the present case was 32 years old at the time of the accident. The Tribunal took the income of the deceased at Rs.7600/- per month and 1/3rd was deducted towards personal expenses. 50% future prospects were added and thereafter, applied the multiplier of 16, in view of ***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77.*** The claimants were awarded Rs.1,00,000/- towards loss of consortium, Rs.1,00,000/- towards loss of love and affection and Rs.50,000/- for the last rites and transportation. The total compensation awarded to the claimant was Rs.17,09,200/-.

3. The only argument raised by learned counsel for the appellant-Insurance company that the compensation awarded by the learned Tribunal is on the higher side and no future prospects should have been granted while granting the compensation, as the deceased was a private employee. Further the amount awarded under the conventional head is on the higher side.

4. On the other hand, learned counsel for the appellants-claimants contends that the compensation awarded by the Tribunal is on the lower side and deserves to be enhanced. Learned counsel for the appellant-claimants has further referred to order dated 08.08.2017 whereby

application filed by the claimants for correction in the judgment dated

18.02.2017 was disposed of and the judgment dated 18.02.2017 was corrected as per amended title dated 13.10.2016 by depicting the names of Harnam Singh and Hardedep Kaur, both minor children.

5. Heard learned counsel for the parties.

6. 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.”.

7. In the present case, the deceased was a skilled labourer, as he was working as Welder and working with M/S Hari Om Drillers and the minimum wages of skilled labour at the time of accident was Rs.8200/- and can be taken at Rs.8500/-for the purpose of compensation and the compensation is being reassessed as per the judgments mentioned above:-

Sr. No.	Heads	Calculations
(i)	Salary	Rs.8500/- per month
(ii)	40% of (i) above to be added as future prospects=	Rs.8500+Rs.3400=Rs.11900/- per month
(iii)	1/4 th of (ii) deducted as personal expenses of the deceased=	Rs.11900-Rs.2975=Rs.8925/- per month
(iv)	Compensation after multiplier of 16 is applied	Rs.8925 X 12 X 16= Rs.17,13,600/-
(v)	Conventional heads (Loss of estate, loss of consortium and funeral expenses)	Rs.70,000/-
(vi)	Total Compensation awarded	Rs.17,83,600/-
	Enhanced amount of compensation	Rs.17,83,600-Rs.17,09,200=Rs.74,400/-

5814 of 2017) filed by the Insurance company is dismissed and the appeal i.e FAO No. 8323-2017 filed by the claimants is partly allowed to the extent that they are entitled to get compensation of Rs.74,400/-, which shall be payable within a period of forty five days from the date of receipt of certified copy of this order. The appellants (FAO No. 8323-2017) shall also get interest @ 7.5% 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 ***Shri Nagar Mal and ors vs. The Oriental Insurance Co. Ltd and others, passed in Civil Appeal No. 448-2018., decided on 19.01.2018.*** The remaining conditions of disbursal of amount and recovery rights shall remain unaltered.

April 04, 2018
G Arora

(***RITU BAHRI***)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No