

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

**F.A.O No. 3477 of 2001
Date of decision:- 04.09.2019**

Krishan Kumar ...Appellant

Versus

Ajmer Singh and ors. ...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Ms. Mahek Sawhney, Advocate
for the appellant

Mr. Sanjay Vashisht, Advocate
for respondent No. 2

Mr. R.N. Singal, Advocate
for respondent No. 3

RITU BAHRI J. (Oral)

C.M. No. 19353-CII-2001

1. For the reasons mentioned in the application, delay of 30 days in filing of the appeal stands condoned.

The application stands disposed of accordingly.

FAO No. 3477-2001

The present appeal has been preferred by the claimant-appellant, seeking enhancement of the amount of compensation awarded by the learned Motor Accident Claims Tribunal, Bhiwani (for short, 'the Tribunal') to the tune of Rs.85,000/- vide impugned award dated 14.02.2000.

2. As per claimants, on 12.03.1998, an accident took place with jeep No. DL-CB-0639. In the said jeep Anil Kumar and other passengers were travelling. At about 7.30 A.M, when the jeep reached in front of Police

Post Gujrani turning point, one constable Ajmer Singh got stooped the jeep and by pushing the driver another side, Ajmer Singh himself started driving the jeep in a rash and negligent manner, due to which he lost control over and the jeep hit the Kiker tree. As a result of this impact, all the passengers sitting on the conductor seat fell down and received injuries. Anil Kumar died on 16.03.1998, Munshi Ram died on the spot and Rajbir died when he was taken to hospital. F.I.R was registered in this regard.

3. While assessing compensation, the Tribunal took the income of the deceased at Rs.2000/- per month and 1/3rd was deducted towards personal expenses and thereafter, applied the multiplier of 05. Rs.2000/- were awarded towards funeral expenses and Rs.2500/- on account of loss of estate. The total compensation awarded to the claimants was Rs.85,000/-.

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, as the Tribunal has not awarded future prospects and the income is taken on the lower side.

5. On the other hand, the learned counsel for the respondent No. 1 has vehemently opposed the present appeal.

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

7. It is not in dispute between the parties that the accident had taken place, as the accident had been duly proved by the claimants/appellants. Further the son and mother are also entitled for compensation of Rs.40,000/- each under the head of loss of filial consortium, in view of judgment of Hon'ble the Supreme Court of India in a

case of ***Magma General Insurance Co. Ltd vs Nanu Ram Alias Chuhru Ram, 2018 (4) RCR Civil 837 .***

8. 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.”.

9. The monthly salary of the deceased can be taken at Rs.1500/- per month (minimum wages), as the claimants have not proved his income. However the parents and children of the deceased are also entitled for compensation of Rs.40,000/- each under the head of loss of filial consortium

10. In the present case, the compensation is being reassessed as per the judgments mentioned above:-

Sr. No.	Heads	Calculations
(i)	Income	Rs.1500/- per month
(ii)	10% of (i) above to be added as future prospects=	Rs.1500+Rs.150=Rs.1650/- per month
(iii)	1/3 rd of (ii) deducted as personal expenses of the deceased=	Rs.1650-Rs.550=Rs.1100/- per month
(iv)	Compensation after multiplier of 09 is applied	Rs.1100X 12 X 9= Rs.1,18,800/-
(v)	Conventional heads (Loss of estate and funeral expenses)	Rs.30,000/-
(vi)	Loss of filial consortium (mother)	Rs.Rs.40,000/-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(vii)	Loss of consortium (son)	Rs.40,000/-
(viii)	Total Compensation awarded	Rs.02,28,800/-
	Enhanced amount of compensation	02,28,800-85,000=Rs.01,43,800/- (rounded off to Rs.01,44,000/-)

11. The enhanced amount of compensation of Rs.01,44,000/- 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% in view of judgment of Hon'ble the Apex Court in Civil Appeal No. 4528-2019 titled as *Dara Singh @ Dhara Banjara vs. Shyam Singh Varma and ors, decided on 01.05.2019*. The remaining conditions of disbursal of amount and recovery rights shall remain unaltered.

12. Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

04.09.2019
G Arora

Whether speaking/reasoned

Whether reportable

(RITU BAHRI)

JUDGE

Yes

No