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

F.A.O No. 1953 of 2012 (O&M)
Date of decision:- 04.07.2019

Mohan Lal and and anr. ...Appellants

Versus

Mohan Singh ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Gurcharan Dass, Advocate,
for the appellants

Mr. Hitesh Pandit, Advocate
for the respondent.

RITU BAHRI J. (Oral)

1. The present appeal has been preferred by the claimants-appellants, seeking enhancement of the amount of compensation awarded by the learned Motor Accident Claims Tribunal, Ludhiana (for short, 'the Tribunal') to the tune of Rs.02,40,000/- vide impugned award dated 23.09.2009 on account of death of Sanjeev Kumar alias Raju aged 26 years on 20.07.2006.

2. As per the Tribunal, the deceased-Sanjeev Kumar alias Raju in the present case was 26 years old at the time of the accident. The Tribunal took the income of the deceased at Rs.3000/- per month and 1/3rd was deducted towards personal expenses and thereafter, applied the multiplier of 10 as per the age of parents, in view of ***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77.*** The total compensation awarded to the claimants was Rs.02,40,000/-.

3. 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, as the Tribunal has not awarded future prospects and further nothing has been awarded under conventional heads. The multiplier of 10 has been wrongly applied by taking the age of parents.

4. On the other hand, the learned counsel for the respondent-driver has vehemently opposed the present appeal.

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

6. 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.

7. 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.".

8. Further the Tribunal should have applied the multiplier of 17 instead of 10, in view of ***Sarla Verma's case (supra)***. The deceased was the bachelor and 1/2 should be deducted towards personal expenses. The parents of the deceased 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*** .

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

Sr. No.	***Heads***	***Calculations***
(i)	Income	Rs.3000/- per month
(ii)	40% of (i) above to be added as future prospects=	Rs.3000+Rs.1200=Rs.4200/- per month
(iii)	1/2 of (ii) deducted as personal expenses of the deceased=	Rs.4200-Rs.2100=Rs.2100/- per month
(iv)	Compensation after multiplier of 17 is applied	Rs.2100X 12 X 17= Rs.04,28,400/-
(v)	Conventional heads (Loss of estate and funeral expenses)	Rs.30,000/-
(vi)	Loss of filial consortium (parents)	Rs.80,000/-(Rs.40,000/- each)
(vii)	Total Compensation awarded	Rs.5,38,400/-
	Enhanced amount of compensation	**538400-240000=Rs.2,98,400/-** **(rounded off to Rs.2,98,000/-)**

10. The enhanced amount of compensation of Rs.2,98,000/- 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% from the date of filing of the claim petition, 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.

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

04.07.2019 **(RITU BAHRI)**

G Arora ***JUDGE***

Whether speaking/reasoned Yes

Whether reportable No