

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

FAO-684-2012 (O&M)

Date of decision : 18.9.2019

Smt. Sonika and others

..... Appellants.

Versus

Mahender Nath and others

..... Respondents.

CORAM : HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Sunil Kumar, Advocate for the appellants.

Mr. M.B.Jain, Advocate for respondent No. 3.

RITU BAHRI, J (ORAL)

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, Karnal (for short, 'the Tribunal') to the tune of Rs.9,75,000/- vide impugned award dated 08.10.2011 on account of death of Main Pal.

2. As per claimants, on 9.6.2010, the deceased Mainpal had met with an accident when he was going on his motor cycle from village Bairsal to Nilokheri District Karnal along with his father-Ramesh Kumar. When they reached on GT road near village Butana, a truck tralla being driven by respondent No. 1 came rashly and negligently at a very high speed hit the motor cycle being driven by Mainpal. As a result of which Main pal died at the spot. F.I.R was duly registered in this regard.

3. It was pleaded in the claim petition that the deceased was the only bread earner of the family and all the claimants were dependent upon him. Respondents No. 1 and 2 put in appearance and denied the all the averments made by the appellants in the claim petition and also raised objections with regard to maintainability of the claim petition. The stand of respondent No. 3-

Insurance company was as same as that of respondents No. 1 and 2.

4. While assessing compensation, the Tribunal determined the age of the deceased to be 19 years and his monthly income was assessed at Rs. 7500/- per month and after deducting 1/3rd of the above amount multiplier of 16 was applied which comes to Rs. 9,60,000/-. The Tribunal awarded the compensation to the claimants as mentioned below:-

1.	Dependency	Rs. 9,60,000/-
2.	Transportation	Rs. 10,000/-
3.	Loss of consortium	Rs. 5,000/-
	Total	Rs. 9,75,000/-

5. 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.

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

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

8. 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. I am of the view that the compensation requires reconsideration.

9. Further the parents 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.***

10. 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.”.

11. **Reassessment of compensation: -**

<i>S. N.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Income of the deceased	Rs. 7500/- per month
(ii)	After 40% future prospects, the income of the deceased comes to	Rs.7500 + 3000 = 10,500/-
(iii)	1/3 rd of (i) deducted as personal expenses of the deceased =	Rs. 10,500-3,500=7,000/-
(iii)	Compensation after multiplier of 18 is applied	Rs. 7,000 x 12 x 18 = Rs. 15,12,000/-
(iv)	Transportation charges	Rs. 5000/-
(v)	Funeral Expenses	Rs. 15,000/-
(vi)	Loss of Estate	Rs. 15,000/-
(vii)	Loss of filial consortium	Rs. 1,20,000/- (Rs.40,000/- each)
(viii)	Total Compensation awarded	Rs. 16,67,000/- (rounded off)
	Enhanced amount of compensation	16,67,000-9,75,000/- (rounded off Rs. 6,92,000/-)

12. The enhanced amount of compensation of Rs.6,92,000/- 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.

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

(RITU BAHRI)
JUDGE

18.9.2019
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Whether speaking / reasoned	Yes/No
Whether Reportable:	Yes/No