

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

**F.A.O No. 1444 of 2013
Date of decision:- 11.07.2019**

Sonamoni and ors. ...Appellants

Versus

Anish Khan and ors. ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Atul Yadav, Advocate,
for the appellants

Mr. Vishal Aggarwal, Advocate
for respondent No. 4-Insurance Company.

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, Gurgaon (for short, 'the Tribunal') to the tune of Rs.13,52,200/- vide impugned award dated 22.09.2012 on account of death of Sudeep Chakraborty on 19.01.2011 when the deceased while going on foot towards his office from Silokhra village reached near World SPA, Sector 30 Gurgaon then a dumper bearing registration No. HR-27J-1248 being driven by its driver in a rash and negligent driving hit him. As a result of the impact, the deceased sustained multiple grievous injuries on his person. He was rushed to Medanta, the Medicity Hospital, Gurgaon. F.I.R No. 118 dated 19.01.2011 was registered under Sections 279/304-A IPC. The post mortem was conducted vide PMR dated 20.01.2011.

2. As per the Tribunal, the deceased-Sudeep Chakraborty in the

present case was 23-24 years old at the time of the accident. The Tribunal took the income of the deceased at Rs.5400/- per month and 1/4th was deducted towards personal expenses. Further 50% was added towards future prospects and thereafter, applied the multiplier of 18 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*. Rs. 30,000/- was awarded towards funeral expenses and Rs.10,000/- towards loss of consortium. The total compensation awarded to the claimants was Rs.13,52,200/-.

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 be enhanced, as the Tribunal has not taken the full income of the deceased.

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 seems 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.

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

Sr. No.	Heads	Calculations
(i)	Income	Rs.7080/- per month
(ii)	40% of (i) above to be added as future prospects=	Rs.7080+Rs.2832=Rs.9912/- per month
(iii)	1/4 th of (ii) deducted as personal expenses of the deceased=	Rs.9912-Rs.2478=Rs.7434/- per month
(iv)	Compensation after multiplier of 18 is applied	Rs.7434X 12 X 18= Rs.16,05,744/-
(v)	Conventional heads (Loss of estate, funeral expenses and funeral expenses)	Rs.70,000/-
(vi)	Total Compensation awarded	Rs.16,75,744/-
	Enhanced amount of compensation	1675744-1352200=Rs.3,23,544/- (rounded off to Rs.3,23,000/-)

10. The enhanced amount of compensation of Rs.3,23,000/- 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 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.

11.07.2019

G Arora

Whether speaking/reasoned
Whether reportable

(RITU BAHRI)
JUDGE
Yes
No