

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

**F.A.O No. 10556 of 2014
Date of decision:- 31.10.2019**

Dharma Devi and others

...Appellants

Versus

Mani Ram and ors.

...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Vikrant Rana, Advocate
for the appellant

Ms. Madhu Sharma, Advocate
for respondent No. 3

RITU BAHRI J. (Oral)

C.M. No. 29094-CII-2014

The present application is for impleading Partik (minor) through her mother appellant No. 3.

Learned counsel for the applicant states that inadvertently the applicant could not be impleaded as party in the claim petition. He submits that the claim was decided on 14.07.2014 and the applicant Partik was born on 28.06.2012.

Keeping in view the above fact, the application is allowed and the applicant Partik is impleaded as appellant No. 5 through his mother i.e appellant No. 3.

F.A.O No. 10556-2014

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.3,81,000/- vide impugned award dated 14.07.2014 on account of death of Basant Kumar.

As per claimants, on 08.01.2012, Ram Niwas and Basant (since deceased) were coming from Badhra to Kari Modh on their motor cycle, which was being driven by Basant. When they reached near village Kari Modh, they stopped their motorcycle on their side below the road, in the meantime, alto car bearing registration No. HR-19A-9499 being driven by its driver in a rash and negligent manner, hit the motorcycle of the deceased due to which they fell down and both sustained injuries. After accident. Basant Kumar was brought dead to General Hospital, Bhiwani. F.I.R No. 10 dated 09.10.2012 was registered in this regard at P.S Badhra under Section 279/337/304-A against respondent No. 1.

While assessing compensation, the Tribunal took the income of the deceased at Rs.5000/- per month and 30% were added as future prospects. 1/4th was deducted towards personal expenses and thereafter, applied the multiplier of 18. Rs.25000/- were awarded towards funeral expenses and Rs.5000/- were awarded towards loss of estate. The total compensation awarded to the claimants was Rs.3,81,000/-.

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

On the other hand, learned counsel for the Insurance company has vehemently opposed the argument raised by learned counsel for the appellants.

I have heard learned counsel for the parties and perused the

It is not in dispute that the accident had taken place, as the accident had been duly proved by the claimants/appellants. Further the minor child and parents are also entitled for compensation of Rs.40,000/- each under the head of loss of 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*** .

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.”.

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

Sr. No.	Heads	Calculations
(i)	Income	Rs.5000/- per month
(ii)	30% of (i) above to be added as future prospects=	Rs.5000+Rs.1500=Rs.6500/- per month
(iii)	1/4 th of (ii) deducted as personal expenses of the deceased=	Rs.6500-Rs.1625=Rs.4875/- per month
(iv)	Compensation after multiplier of 18 is applied	Rs.4875X 12 X 18= Rs.10,53,000/-
(v)	Conventional heads (Loss of estate, consortium and funeral expenses)	Rs.70,000/-
(vi)	Loss of consortium (children)	Rs.80,000 (Rs.40,000/- each)

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(viI)	Loss of consortium (parents)	Rs.80,000/- (Rs.40,000/- each)
(viii)	Total Compensation awarded	Rs.12,83,000/-
	Enhanced amount of compensation	12,83,000-3,81,000=Rs.09,02,000/-

The enhanced amount of compensation of Rs.09,02,000/- 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, 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.

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

All pending applications stands disposed of.

31.10.2019

G Arora

Whether speaking/reasoned
Whether reportable

(RITU BAHRI)
JUDGE

Yes
No