

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

F.A.O No. 141 of 2015

Date of decision:- 25.09.2019

Bimla Devi and anr.

...Appellants

Versus

Bijender Singh & ors.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. A.K. Singal, Advocate
for the appellants

None for respondent No. 3

RITU BAHRI J. (Oral)

C.M. No. 487-CII-2014

For the reasons mentioned in the application, delay of 56 days in filing of the appeal is hereby condoned.

The application stands disposed of accordingly.

FAO No. 141-2015

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, Panipat (for short, 'the Tribunal') to the tune of Rs.07,42,800/- vide impugned award dated 02.05.2014 on account of death of Jai Bhagwan.

2. As per claimants, on 13.05.2011, Jai Bhagwan (since deceased) was coming to village Gumar on his motorcycle bearing registration No. HR-06U-9519. His newphew Surender Singh was following her on another motorcycle bearing registration No. HR-06J-5526. When Jai Bhagwan

reached in the area of village Buana Lakhu, a car bearing No. HR-10P-3893, which was being driven by respondent No. 1 in a rash and negligent manner, struck against the motorcycle of the deceased. Due to the impact, the deceased sustained grievous injuries. He died on the spot. F.I.R No. 117 dated 13.05.2011 under Sections 279/304-A IPC was registered against respondent No. 1 on the statement of Surender Singh.

3. While assessing compensation, the Tribunal took the income of the deceased at Rs.8100/- per month and 1/3rd was deducted towards personal expenses and applied the multiplier of 11. Rs.10,000/- were awarded on account of consortium, Rs.10,000/- were awarded on account of loss of love and affection and Rs.10,000/- were awarded towards funeral expenses. The total compensation awarded to the claimants was Rs.07,42,800/-.

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 no future prospects have been given and the income is taken on the lower side. Learned counsel for the appellant has shown the copy of jamabandi for the year 2001-02 (Ex P10) and as per jamabandi the deceased was having agricultural land of 28 kanals.

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

6. I have heard learned counsel for the appellant 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. The income of the deceased can be taken to be

Rs.13000/- per month, keeping in view the fact that he was also having income from agricultural land.

8. Further the minor child is 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***.

9. 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.”.

10. In the present case, the compensation is being reassessed as per the judgments mentioned above by taking the income of the deceased at Rs.13000/- per month. :-

Sr. No.	Heads	Calculations
(i)	Income	Rs.13000/- per month
(ii)	10% of (i) above to be added as future prospects=	Rs.13000+Rs.1300=Rs.14300/- per month
(iii)	1/3rd of (ii) deducted as personal expenses of the deceased=	Rs.14300-Rs.4766=Rs.9534/- per month
(iv)	Compensation after multiplier of 11 is applied	Rs.9534X 12 X 11= Rs.12,58,488/-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(v)	Conventional heads (Loss of estate, funeral expenses, consortium)	Rs.70,000/-
(vi)	Loss of consortium (child)	Rs.40,000/-
(viii)	Total Compensation awarded	Rs.13,68,488/-
	Enhanced amount of compensation	13,68,488-07,42,800=Rs.06,25,688/- (rounded off to Rs.6,26,000/-)

11. The enhanced amount of compensation of Rs.06,26,000/- 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.*

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

25.09.2019
G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No