IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. F.A.O No. 2172 of 2014

Baldev Singh and anr. ...Appellants

Versus

Gurdeep Singh & ors. ...Respondents

2. F.A.O No. 2048 of 2015

Sukhwinder Kaur and anr. ...Appellants

Versus

Gurdeep Singh & ors. ...Respondents

Date of decision:- 05.11.2019

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Y.S. Saini, Advocate
for the appellants in FAO No. 2048-2015
and for respondent Nos. 4 and 5 in FAO No. 2172-2014

Mr. Ravish Bansal, Advocate
for the appellants in FAO No. 2172-2014

Ms. Jaspreet Kaur, Advocate for Mr. Ashish Yadav, Advocate
for the Insurance Co.

RITU BAHRI J. (Oral)

1. This order shall dispose of the above two appeals whereby the claimants are seeking enhancement of the amount of compensation awarded by the learned Motor Accident Claims Tribunal, Sangrur (for short, 'the Tribunal') to the tune of Rs.24,20,296/- vide impugned award dated 03.12.2013 on account of death of Mandeep Singh.

2. As per claimants, on 02.02.2011, Mandeep Singh (since deceased) along with Gurtej Singh and his brother Ranjit Singh, Lakhwinder Singh had gone to Sangrur for purchasing some domestic

articles on their respect motorcyles. The deceased Mandeep Singh was driving the motorcycle bearing No. PB-13-W-1256 having Gurtej Singh as his pillion rider. Ranjit Singh and Lakhwinder Singh were coming on their separate scooter behind deceased. When they reached in the revenue estate of vilalge Kammo Majra, then a new tractor-trolley bearing No. PB-13-W-0774 loaded with earth driven by respondent No. 1 in a rash and negligent manner came from opposite side and struck into the motorcycle of Mandeep Singh. Both the riders of the motorcycle fell on the road and sustained grievous injuries. Mandeep Singh died on the spot and Gurtej Singh was taken to Civil Hospital, Sangrur for treatment. F.I.R No. 8 dated 02.02.2011 was registered at P.S. Sunam against respondent No. 1.

3. While assessing compensation, the Tribunal took the income of the deceased at Rs.17686/- per month and 1/3rd was deducted towards personal expenses and applied the multiplier of 17. Rs.10,000/- were awarded towards funeral expenses and Rs.5000/- were awarded towards loss of consortium. The total compensation awarded to the claimants was Rs.24,20,296/-. However, the Tribunal apportioned the compensation as under :-

> Claimants No. 1 and 2 be given 20% i.e 10% each
> i.e appellants (FAO No. 2172-2014 in the present case)
>
> Respondent No. 4 widow and respondent No. 5 minor son be given 40% each
> i.e appellants (FAO No. 2048-2015 in the present case)

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 the enhanced, as no future prospects have been awarded. Further learned counsel for the appellants (FAO No. 2172-2014) contends that the appellants be also given 30% share of the awarded amount.

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 parties 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.

8. Further the children as well as 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*** .

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 :-

Sr. No.	***Heads***	***Calculations***
(i)	Income	Rs.17,686/- per month
(ii)	50% of (i) above to be added as future prospects=	Rs.17,686+Rs.8843=Rs.26529/- per month
(iii)	1/4th of (ii) deducted as personal expenses of the deceased=	Rs.26529-Rs.6632=Rs.19897/- per month
(iv)	Compensation after multiplier of 17 is applied	Rs.19897 X 12 X 17= Rs.40,58,988/-
(v)	Conventional heads (Loss of estate, consortium and funeral expenses)	Rs.70,000/-
(vii)	Loss of consortium (child)	Rs.40,000/-
(viii)	Loss of fillail consortium (parents)	Rs.80,000/- (Rs.40,000/- each)
	Total Compensation awarded	Rs.42,48,988/-
	Enhanced amount of compensation	**42,48,988-24,20,296=Rs.18,28,692/-** **(rounded off to Rs.18,28,000/-)**

11. The enhanced amount of compensation of Rs.18,28,000/- 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 condition of recovery rights shall remain unaltered. However, the appellants (FAO No. 2172-2014) are entitled to 30% of the awarded compensation i.e 15% each and the appellants (i.e FAO No. 2048-2015) are entitled to 70% of the awarded compensation i.e 35% each. The claim amount of minor i.e appellant No. 2 in FAO No. 2048-2015 be deposited in the shape of FDR in some nationalized bank which will be released to him at the time of maturity.

12. Accordingly, the award stands modified to the above extent and

the present appeal is partly allowed.

05.11.2019 **(RITU BAHRI)**

G Arora ***JUDGE***

Whether speaking/reasoned Yes

Whether reportable No