IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O No. 2059 of 2015 (O&M)
Date of decision:- 26.9.2019.

Saudagar Singh and others ...Appellants

Versus

Raj Kumar and others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Sushil Bhardwaj, Advocate for the appellants.

Mr. Punit Jain, Advocate for
Mr. M.B. Jain, Advocate for respondents.

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, Karnal (for short, 'the Tribunal') to the tune of Rs. 9,79,800/- vide impugned award dated 29.11.2014 on account of death of Gulab Singh.

2. As per claimants, on 4.1.2012 at about 7.00 p.m., Gulab Singh who was a skilled mason at Dera Kamalpur while coming on foot along with Ranjit Singh were hit by a tractor trolley which came from Nilokheri being driven by respondent No. 1 at a high speed. Due to the said accident, Gulab Singh and Rajnit Singh sustained multiple injuries. Respondent No. 1 fled away from the spot. Both the injured were removed to General Hospital, Karnal by Jarnail Singh. Thereafter, Gulab Singh was taken to Guru Nanak Hospital Karnal from where he was referred to GMCH, Sector 32, Chandigarh but in the intervening night of 5/6.1.2012, Gulab Singh died due to multiple and serious injuries received in the accident. F.I.R was duly registered in this regard.

3. The Tribunal took the income of the deceased as Rs. 6600/- per month and after deducting 1/3rd of his income, dependency was assessed as Rs. 6600-2200 = 4400x12 = 52800/-. After applying the multiplier, of 16, the total dependency was assessed as Rs. 52800 x 16 = Rs. 8,44,800/-. The Tribunal awarded the compensation to the claimants as mentioned below:-

1.	Medical Expenses	Rs. 10,000/-
2.	Dependency	Rs. 8,44,800/-
3.	Consortium	Rs. 50,000/-
4.	Funeral Expenses	Rs. 25,000/-
5.	Loss of love and affection and for loss of care and guidance	Rs. 50,000/-
	Total	Rs. 9,79,800/-

4. The learned counsel for the claimants-appellants contends that the compensation awarded by the learned Tribunal to the present appellants is on the lower side and deserves to the enhanced. He further submits that the deceased was 30 years of age and all the appellants were dependent upon him.

5. On the other hand, the learned counsel for the respondent-driver has vehemently opposed the present appeal on the ground that the claim petition is not maintainable as the claimants have no locus standi or cause of action and that the driver of the offending vehicle was not having effective and valid driving licence. Learned counsel for respondents further took the plea that accident had occurred due to sole negligence of the deceased.

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

7. Parties are also not disputing the findings on issue No. 1. The said findings have been given in favour of the appellants-claimants. A perusal of the file shows that FIR No. 5 in question (Ex-P5)was lodged by Jarnail Singh who appeared as PW2 and corroborated the version given in the FIR. Challan Ex. P3 was also presented against respondent No.1 who is facing the trial as is proved from the copy of charge-sheet Ex. P-6. As per the report of the post mortem Ex. P1, Gulab Singh died as a result of the injuries sustained by him in the said accident. 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 compensation requires reconsideration.

8. 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*** .

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.6600/- per month
(ii)	40% of (i) above to be added as future prospects=	Rs.6600+Rs.2640= Rs.9240/- per month
(iii)	1/3rd of (ii) deducted as personal expenses of the deceased=	Rs.9240-Rs.3080= Rs.6160/- per month
(iv)	Compensation after multiplier of 17 is applied	Rs.6160X 12 X 17= Rs.12,56,640/-
(v)	Conventional heads (Loss of estate and funeral expenses)	Rs.30,000/-
(vi)	Loss of filial consortium (parents)	Rs.1,60,000/-(Rs.40,000/- each)
(vii)	Total Compensation awarded	Rs.14,46,640/-
	Enhanced amount of compensation	**14,46,640-9,79,800=Rs.4,66,840/-**

10. The enhanced amount of compensation of Rs.4,66,840/- 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.

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

26.09.2019 (RITU BAHRI)
preeti JUDGE

Whether speaking/reasoned ***Yes/No***
Whether reportable ***Yes/No***