

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

F.A.O No. 4874 of 2013 (O&M)

Date of decision:- 12.07.2019

Balbir Singh and ors.

...Appellants

Versus

Sunil Kumar & ors.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Tarun Singla, Advocate,
for the appellants

Mr. Suvir Dewan, Advocate
for respondent-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, Ludhiana (for short, 'the Tribunal') to the tune of Rs.05,50,000/- vide impugned award dated 04.02.2013 on account of death of Gurbinder Singh.

2. As per claimants, the deceased-Gurbinder Singh in the present case was 18 years old at the time of the accident. On 06.08.2007, the deceased Gurbinder Singh along with Jaswinder Singh, Bikramjit Singh and Gurpreet Singh had gone to Naina Devi Mandir via Anandpur Sahib from Samrala. They had gone on two motorcycles bearing No. PB-43B-7895 and PB43B-1086. The motorcycle bearing No. PB-43B-7895 was being driven by Jaswinder Singh whereas Bikramjit Singh was a pillion rider. The motorcycle No. PB43B-1086 was being driven by Gurpreet Singh and Gurbinder Singh was a pillion rider. This motorcycle was going ahead of other motorcycle driven by Jaswinder Singh., At about 10:30 P.M when the motorcycle had reached near Khurana Petrol Pump of village dolowal, then

a truck bearing registration No. HP-31A-4925 came from the front side in a rash and negligent manner and hit the motorcycle of Gurpreet Singh on which Gurbinder Singh was a pillion rider. Due to said accident, both had fallen down on the road. Both the injured were taken to civil hospital, Anandpur Sahib where Gurbinder Singh was declared dead. F.I.R No. 87 under Sections 279/337/304-A/427 IPC was registered against the driver of the truck.

3. The Tribunal took the income of the deceased at Rs.6000/- per month and 1/2 was deducted towards personal expenses and thereafter, applied the multiplier of 15 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.*** The total compensation awarded to the claimants was Rs.05,40,000/-.

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 the Tribunal has not awarded future prospects and further nothing has been awarded under conventional heads. The multiplier of 15 has been wrongly applied by taking the age of parents.

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. 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.”.

9. Further the Tribunal should have applied the multiplier of 18 instead of 15, in view of *Sarla Verma's case (supra)*. 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* . This judgment has further been followed by Hon'ble the Supreme Court in a case of *Sebastiani Lakra vs National Insurance Company Ltd, passed in CIVIL APPEAL NO(S). 10588-89 of 2018, decided on 12.10.2018*.

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

Sr. No.	Heads	Calculations
(i)	Income	Rs.6000/- per month
(ii)	40% of (i) above to be added as future prospects=	Rs.6000+Rs.2400=Rs.8400/- per month
(iii)	1/2 of (ii) deducted as personal expenses of the deceased=	Rs.8400-Rs.4200=Rs.4200/- per month
(iv)	Compensation after multiplier of 18 is applied	Rs.4200X 12 X 18= Rs.09,07,200/-
(v)	Conventional heads (Loss of estate and funeral expenses)	Rs.30,000/-
(vi)	Loss of filial consortium (parents)	Rs.80,000/-(Rs.40,000/- each)
(vii)	Total Compensation awarded	Rs.10,17,200/-
	Enhanced amount of compensation	1017200-550000=Rs.4,67,200/- (rounded of to Rs.4,67,000/-)

11. The enhanced amount of compensation of Rs.4,67,000/- 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% from the date of filing of the claim petition, in view of judgment of Hon'ble the

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.

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

12.07.2019

G Arora

Whether speaking/reasoned

Whether reportable

(RITU BAHRI)

JUDGE

Yes

No

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