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

F.A.O No.174 of 2016 (O&M)
Date of decision:-September 17, 2019

Krishna **... Appellant**

Versus

Bhupinder Singh and others **... Respondents**

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- None for the appellant.

Mr. Suman Jain, Advocate with
Mr. Shubham Jain, Advocate
for respondent No.3-Insurance Company.

RITU BAHRI J. (Oral)

CM-18442-CII-2019 in/and CM-365-CII-2016

Reply to the application for condonation of delay is taken on record and after going through the reply and the reasons mentioned in the application, delay of 184 days in filing the present appeal is condoned, subject to all just exceptions.

Applications stand disposed of.

Main Case

1. 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, Rupnagar (for short, 'the Tribunal') to the tune of Rs.80,000/- vide impugned award dated 12.01.2015 on account of death of Tulla Ram, father of the claimant, who died in a road accident, which took place on 10.06.2013.

2. There is no dispute regarding the finding recorded qua

issue No.1. This finding has rightly been given in favour of the claimants-appellants. The FIR No.108, dated 11.06.2013 (Ex.P2) under Sections 279 and 304-A IPC was registered against the driver of the offending vehicle respondent No.1. As per postmortem report of deceased Tulla Ram Ex.P1, the deceased died due to the accidental injuries. The copy of RC of the offending vehicle is Ex.R2, Copy of fitness certificate of the offending bus is Ex.R3, copy of the Insurance Policy is Ex.R4 and the copy of route permit of the offending vehicle is Ex.R5. The Tribunal has assessed that the liability of respondent Nos.1, 2 and 3 to pay the compensation is joint and as well as several. The Tribunal has assessed the compensation taking into consideration the income of deceased Tulla Ram. Tulla Ram was 68 years of age at the time of accident and the claimant, who is son of Tulla Ram is 24 years and is not dependant upon his father.

Assessment of Compensation by the Tribunal:-

3. The Tribunal awarded compensation of Rs.30,000/- to the claimant. Apart from this, the claimant was also awarded Rs.30,000/- for pain and suffering; Rs.20,000/- for transportation. The total compensation awarded to the claimant by the Tribunal is Rs.80,000/-

4. The claimant-appellant seeks enhancement of compensation stating that the compensation awarded by the learned Tribunal is on the lower side and deserves to be enhanced.

5. The learned counsel for the respondent-Insurance Company has vehemently opposed the present appeal.

6. I have heard learned counsel for the respondent-Insurance Company 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. Further the claimants-appellants 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*** .

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 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.".

9. In the present case, the deceased was 68 years of age and the compensation is to be reassessed as per the judgments mentioned above and multiplier method required to be applied taking him to be a daily wager. The claimant is the sole legal heir of deceased Tulla Ram.

Reassessment of Compensation:-

Sr. No.	Heads	Calculations
(i)	Income	Rs.6,500/- per month

Sr. No.	Heads	Calculations
(ii)	Income after 50% deduction and applying the multiplier of 5	Rs.6,500x50%=Rs.3250/- Rs.3250x12x5=Rs.1,95,000/-
(iii)	Loss of estate	Rs.15,000/-
(iv)	Funeral expenses and last rites	Rs.15,000/-
(v)	Loss of filial consortium (only legal heir)	Rs.40,000/-
(vi)	Total Compensation awarded	Rs./-2,65,000/-
(vii)		
	Enhanced amount of compensation	**Rs.2,65,000-Rs.80,000/-=Rs.185,000/-** **(rounded off to Rs.1,85,000/-)**

10. The enhanced amount of compensation of Rs.1,85,000/- 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***. 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.

(RITU BAHRI)
JUDGE

September 17, 2019
sarita
Whether speaking/reasoned Yes/No
Whether reportable Yes/No