

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

F.A.O No. 2824 of 2015

Date of decision:- 13.12.2019

Pushpa and ors.

...Appellants

Versus

Nafees Mohammad and ors.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Dr. Deipa Singh, Advocate
for the appellants

Mr. Sachin Ohri, Advocate
for the Insurance Co.

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, Palwal (for short, 'the Tribunal') to the tune of Rs.16,55,000/- vide impugned award dated 03.12.2014 on account of death of Devi Ram.

2. As per claimants, on 17.06.2013, deceased Dharambir along with Devi Ram was going to Ballabgarh from their village Ghasera on a motorcycle bearing No. HR -50-B-1269 driven by Devi Ram. His son Bal Krishan was also following them on his separate motorcycle bearing No. HR-50-A-3684. When they reached near Behrola turn on Delhi Mathura road, then a truck bearing registration No. RJ-05GA-7788 came, which was being driven by respondent No. 1 came in a rash and negligent manner and struck against the motorcycle of the deceased. Both fell down and the truck ran over them. They succumbed to their injuries on the spot. F.I.R No. 259

dated 17.06.2013 was registered against respondent No. 1 under Sections 304-A/279 IPC at P.S. Sadar, Palwal.

3. While assessing compensation, the Tribunal took the income of the deceased at Rs.14555/- per month (i.e Rs.7970/- basis salary + Rs.6585/- dearness allowance) and 1/4th was deducted towards personal expenses and applied the multiplier of 14. Rs.10,000/- were awarded on account of funeral expenses, Rs.5,000/- were awarded on account of loss of estate and Rs.20,000/- were awarded on account of loss of consortium. The total compensation awarded to the claimants was Rs.16,55,000/-.

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 no future prospects have been awarded.

5. On the other hand, learned counsel for the Insurance Company has opposed the prayer made by the learned counsel for the appellant.,

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 and mother 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 :-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Income	Rs.14555/- per month
(ii)	25% of (i) above to be added as future prospects=	Rs.14555+Rs.3638=Rs.18193/- per month
(iii)	1/4 th of (ii) deducted as personal expenses of the deceased=	Rs.18193-Rs.4548=Rs.13645/- per month
(iv)	Compensation after multiplier of 14 is applied	Rs.13645 X 12 X 14= Rs.22,92,360/-
(v)	Conventional heads (Loss of estate, consortium and funeral expenses)	Rs.70,000/-
(vi)	Loss of fillail consortium (mother)	Rs.40,000/-
(vii)	Loss of consortium (children)	Rs.80,000/- (Rs.40,000/- each)
(viii)	Total Compensation awarded	Rs.24,82,360/-
	Enhanced amount of compensation	24,82,360-16,55,000=Rs.08,27,360/- (rounded off to Rs.8,27,000/-)

11. The enhanced amount of compensation of Rs.08,27,000/- 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 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.

13.12.2019

G Arora

Whether speaking/reasoned
Whether reportable

(RITU BAHRI)
JUDGE
Yes
No