

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

**F.A.O No. 5313 of 2014
Date of decision:- 13.09.2019**

Akbar and ors.

...Appellants

Versus

Vinod Kumar & ors.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Ms. Pratibha Yadav, Advocate
for the appellants

Mr. Gopal Mittal, Advocate
for respondent No. 3

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, Nuh (for short, 'the Tribunal') to the tune of Rs.01,75,185/- vide impugned award dated 17.01.2014 on account of death of Salim Khan.

2. As per claimants, on 15.05.2012, Salim Khan (since deceased) along with Sakir Khan, Talib Khan and Salman, was going on foot for dinner in the hotel situated near the border of village Gaud, on their left hand side on kacha portion of the road. When they reached near Petrol Pump, village Gauda, within the area of P.S. Narnaul, District Mahendergarh, a motor cycle driven by respondent No. 1 in a rash and negligent manner came there and struck against deceased Salim Khan from the back side. Due to the impact, the deceased sustained grievous injuries on

his head and became unconscious. He was admitted in General Hospital Narnaul and was thereafter referred to Kailash Hospital, Village Behror, where he succumbed to his injuries. F.I.R No. 112 dated 17.05.2012 under Sections 279/337/304-A IPC was registered at P.S. Sadar Narnaul against respondent No. 1

3. While assessing compensation, the Tribunal awarded 50,000/- each to parents, Rs.50,185 towards medical expenses and Rs.25,000/- towards funeral expenses. The Tribunal held that the petitioners were not dependent upon the income of the deceased. The total compensation awarded to the claimants was Rs.01,75,185/-.

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 applied the multiplier method and has wrongly held that the appellants were not dependent upon the deceased.

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. Further the deceased was only 20 years old at the time of accident and was student of Singhanian Engineering College. He was about to complete the engineering course. He has taken training from Roop Automobiles Ltd, Rojkameo. The certificates are Ex P-1 to P-7. So the

appellants are entitled for compensation, as even in the case of minor, the parents are given compensation.

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*** . 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.***

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.

10. In the present case, the compensation is being reassessed as per the judgments mentioned above by taking the income of the deceased at Rs.10000/- per month keeping in view the fact that he was student of

Engineering College. :-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Income	Rs.10000/- per month
(ii)	40% of (i) above to be added as future prospects=	Rs.10000+Rs.4000=Rs.14000/- per month
(iii)	1/2 of (ii) deducted as personal expenses of the deceased=	Rs.14000-Rs.7000=Rs.7000/- per month
(iv)	Compensation after multiplier of 18 is applied	Rs.7000X 12 X 18= Rs.15,12,000/-
(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)	Loss of consortium (sisters and brothers)	Rs.2,00,000/-
(viii)	Total Compensation awarded	Rs.18,22,000/-
	Enhanced amount of compensation	18,22,000-01,75,185=Rs.16,46,815/- (rounded off to Rs.16,46,000/-)

11. The enhanced amount of compensation of Rs.16,46,000/- 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.*

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

13.09.2019

G Arora

(RITU BAHRI)

JUDGE

Whether speaking/reasoned

Whether reportable

Yes

No