

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

F.A.O No. 3820 of 2016

Date of decision:- 24.07.2019

Lakhvir Kaur and anr.

...Appellants

Versus

Bikkar Singh and another

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. S.K. Arora, Advocate,
for the appellants

Ms. Anika Mehra, Advocate
for the 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 (District Judge), Faridkot (for short, 'the Tribunal') to the tune of Rs.04,50,000/- vide impugned award dated 29.01.2016 on account of death of Ranjit Singh in a road accident on 07.03.2015.

2. As per the case of the claimants, on 06.03.2015 at about 10:30 P.M, the deceased-Ranjit Singh along with Ankit Kumar alias Raja was going on motorcycle bearing registration No. PB-04Q-9888 to leave Ankit @ Raja at Malwa College of Education, Mehmuna after celebrating holy festival. Harbhajan Singh and Amrik Singh were also following them on separate motorcycle. When they reached ahead of petrol pump/rice sheller towards village Machaki kalan, one tractor trolley bearing registration No. PB-04S-1811 was going towards sadiq side. The driver of tractor trolley

suddenly stopped the tractor trolley due to which the motorcycle of Ranjit Singh struck into the tractor trolley. Both the riders of the motorcycle fell down on the road and sustained grievous and multiple injuries. They were taken to Medical College, Faridkot where they succumbed to their injuries. F.I.R No. 15 dated 07.03.2015 under Sections 283/304-A IPC was registered against respondent No. 1 at P.S. Sadar Faridkot.

3. The Tribunal awarded the lumpsum compensation of Rs.4,50,000/- to the claimants and since the offending truck was not insured, the respondents were held liable to pay the compensation jointly and severally.

4. The learned counsel for the claimant-appellant 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 the lumpsum compensation has been given wrongly.

5. On the other hand, the learned counsel for the respondents 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 by placing on record copy of F.I.R, challan, charge sheet, copy of post mortem report.

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. The monthly salary of the deceased should have been taken to Rs.7000/- per month (minimum wages). 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.7000/- per month
(ii)	40% of (i) above to be added as future prospects=	Rs.7000+Rs.2800=Rs.9800/- per month
(iii)	1/2 of (ii) deducted as personal expenses of the deceased=	Rs.9800-Rs.4900=Rs.4900/- per month
(iv)	Compensation after multiplier of 18 is applied	Rs.4900X 12 X 18= Rs.10,58,400/-
(v)	Conventional heads (Loss of estate, funeral expenses)	Rs.30,000/-
(vi)	Loss of filial consortium (parents)	Rs.80,000/-(Rs.40,000/- to parents)

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(vii)	Total Compensation awarded	Rs.11,68,400/-
	Enhanced amount of compensation	1168400-450000=Rs.7,18,400/- (rounded of to Rs.7,18,000/-)

11. The enhanced amount of compensation of Rs.7,18,000/- 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 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.

24.07.2019

G Arora

(RITU BAHRI)

JUDGE

Whether speaking/reasoned

Whether reportable

Yes

No