IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O No. 5616 of 2015
Date of decision:- 27.08.2019

Lakhvir Singh and ors. ...Appellants

Versus

Gurjant Singh & ors. ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. N.S. Dandiwal, Advocate
for the appellants

Mr. Vinod Gupta, 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, Bathinda (for short, 'the Tribunal') to the tune of Rs.08,84,000/- vide impugned award dated 03.04.2015 on account of death of Amandeep Singh

2. As per claimants, on 03.12.2012, Lakhvir Singh and his son Amandeep Singh deceased had gone to Bathinda on their motorcycles. When they reached at bridge on canal of Bathinda, Gurcharan Singh who was their acquaintance, met him as was waiting for conveyance for going to his house. He took lift from Amandeep Singh on his motorcycle Hero Honda Splendor bearing registration No. PB-03-X-2336. When Amandeep Singh and Gurcharan Singh reached at Chanayia Chownk, Bathndia, they turned towards Malout, in the meantime, a truck bearing registration No. PB-03-X-9793 driven by respondent No. 1 in rash and negligent manner,

without blowing horn came from Goniana side and struck against the motorcycle of the deceased. As a result of impact, Amandeep Singh and Gurcharan Singh received multiple injuries. They were taken to Civil Hospital, Bathinda but they succumbed to their injures. F.I.R was registered against respondent No. 1.

3. While assessing compensation, the Tribunal took the income of the deceased at Rs.6000/- per month and 1/3rd was deducted towards personal expenses an thereafter, applied the multiplier of 18, in view of ***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77.*** Rs.5000/- were awarded towards funeral expenses, Rs.5000/- towards loss of consortium and Rs.10,000/- on account of loss of estate**.** The total compensation awarded to the claimants was Rs.08,84,000/-.

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 the enhanced, as the Tribunal has not awarded future prospects

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 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. The monthly salary of the deceased has been rightly taken at Rs.6000/- per month (minimum wages). However the parents and minor children of the deceased 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)	1/3rd of (ii) deducted as personal expenses of the deceased=	Rs.8400-Rs.2800=Rs.5600/- per month
(iv)	Compensation after multiplier of 18 is applied	Rs.5600X 12 X 18= Rs.12,09,600/-
(v)	Conventional heads (Loss of estate and funeral expenses, loss of consortium)	Rs.70,000/-
(vi)	Loss of filial consortium (parents)	Rs.80,000/-(Rs.40,000/- each)
(vii)	Loss of consortium (child)	Rs.40,000/-
(viii)	Total Compensation awarded	Rs.13,99,600/-
	Enhanced amount of compensation	**13,99,600-08,84,000=Rs.05,15,600/- (rounded off to Rs.05,15,000/-)**

11. The enhanced amount of compensation of Rs.05,15,000/- 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.

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

27.08.2019 **(RITU BAHRI)**

G Arora ***JUDGE***

Whether speaking/reasoned Yes
Whether reportable No