

217 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

F.A.O No.7280 of 2015 (O&M)
Date of decision:-September 17, 2019

Jasbir Kaur and others

... Appellants

Versus

Vir Singh and others

... Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Gagandeep Singh, Advocate for
Mr. A.S. Manaise, Advocate for the appellants.

Mr. B.S. Tanque, Advocate for respondent No.5.

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, Gurdaspur (for short, 'the Tribunal') to the tune of Rs.4,15,000/- vide impugned award dated 07.05.2015 on account of death of Jaswant Singh, died in a road accident, which took place on 07.05.2009.

Facts Not in Dispute:-

2. There is no dispute regarding the finding recorded qua issue No.1. This finding is given in favour of the claimants-appellants. The FIR Ex.P3 was registered against the driver of the offending vehicle respondent No.1 and postmortem report Ex.P2 was made. As per postmortem report, the deceased died due to the accidental injuries. The statement of eye witness Harjit Singh, CW2 was corroborated by the FIR. The deceased was claimed to be working in a Co-operative Department and

getting salary of Rs.16,250/- per month but no witness was called from the Co-operative Department to prove that the deceased was working with the said department and was getting salary of Rs.16,250/-.

Compensation assessed by the Tribunal:-

3. The income of the deceased was taken Rs.5,000/- per month. As per postmortem report, he was 59 years old. Thus, after deducting 1/3rd and applying the multiplier of 6, the compensation was awarded to the tune of Rs.2,40,000/- (Rs.5000x2/3x12x6). Apart from this, the claimants-appellants were awarded Rs.1,00,000/- towards loss of love and affection; Rs.25,000/- towards funeral expenses, Rs.50,000/- loss of consortium. In this way, the claimants-appellants were awarded total compensation of Rs.4,15,000/-.

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.

5. On the other hand, the learned counsel for the respondent-Insurance Company 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 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.”.

Reassessment of Compensation:-

9. In the present case, the compensation is being reassessed as per the judgments mentioned above:-

Sr. No.	Heads	Calculations
(i)	Income	Rs.5000/- per month
(ii)	10% of (i) above to be added as future prospects=	Rs.5000+Rs.500=Rs.5500/- per month
(iii)	1/ ^{4th} of (ii) deducted as personal expenses of the deceased=	Rs.5500-Rs.1375=Rs.4125/- per month
(iv)	Compensation after multiplier of 9 is applied	Rs.4125x12x9= Rs.4,45,500/-
(v)	Loss of estate	Rs.15,000/-
(vi)	Loss of filial consortium (Appellant Nos.1 to 5)	Rs.2,00,000/-(Rs.40,000/- each)
(vii)	Total Compensation awarded	Rs.6,75,500/-
	Enhanced amount of compensation	6,75,500-4,15,000=Rs.2,60,500/- (rounded off to Rs.2,85,500/-)

10. The enhanced amount of compensation of Rs.2,60,500/- 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.

September 17, 2019

sarita

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No

(RITU BAHRI)
JUDGE