

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

**F.A.O No. 6718 of 2016
Date of decision:- 31.10.2019**

Surender and others ...Appellants

Versus

Karambir Singh and ors. ...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Sandeep Goyat, Advocate
for the appellant

Mr. R.K.S. Brar, Addl.A.G Haryana.

Mr. Manoj Chahal, Advcoate
for respondent No. 5 (i) (ii)

Mr. Suvir Dewan, Advocate
for respondent No. 4

RITU BAHRI J. (Oral)

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, Hisar (for short, 'the Tribunal') to the tune of Rs.9,68,160/- vide impugned award dated 03.10.2016 on account of death of Bhateri Devi in a road accident.

As per claimants, on 15.08.2014, Bhateri Devi (now deceased) along with her daughter-in-law Seema was going to the hospital from her house. When they reached near the house of Munish Bhayana SDO on G.T. Road, Hansi, then a bus bearing registration No. HR-66-7634 which was being driven by respondent No. 1 in a rash and negligent manner came from Hisar side and struck against Bhateri Devi. She fell down and sustained grievous injuries. She was shifted to General Hospital, Hansi from where

she was referred to Jindal Hospital, Hisar where she succumbed to her injuries. F.I.R No. 563 dated 15.08.2014 was registered in this regard at P.S City Hansi under Section 279/304-A against respondent No. 1.

While assessing compensation, the Tribunal took the income of the deceased at Rs.19480/- per month. 1/2 was deducted towards personal expenses and thereafter, applied the multiplier of 07. Rs.25000/- were awarded towards funeral expenses, Rs.1,00,000/- were awarded towards loss of love and Rs.25000/- were awarded towards cost of litigation. The total compensation awarded to the claimants was Rs.9,68,160/-.

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. Learned counsel further contends that the compensation has to be distributed equally among all the claimants.

I have heard learned counsel for the appellant and perused the record.

It is not in dispute that the accident had taken place, as the accident had been duly proved by the claimants/appellants. Further the children 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***.

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.”.

In the present case, the Tribunal has wrongly awarded the major share to the legal heirs of Virender on the ground that he was maintaining the mother. However, all the claimants are class-I heir of the deceased and the compensation has to be divided equally among all the claimants.

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.19480/- per month
(ii)	1/2 rd of (i) deducted as personal expenses of the deceased=	Rs.19480-Rs.9740=Rs.9740/- per month
(iii)	Compensation after multiplier of 7 is applied	Rs.9740X 12 X 7= Rs.8,18,160/-
(iv)	Conventional heads (Loss of estate and funeral expenses)	Rs.30,000/-
(v)	Loss of consortium (children)	Rs.1,20,000/- (Rs.40,000/- each)
(vi)	Loss of love and affection	Rs.1,00,000/- (given by the Tribunal) as the payment has already been disbursed to the claimants
(vii)	Total Compensation awarded	Rs.10,68,160/-
	Enhanced amount of compensation	10,68,160-9,68,160=Rs.01,00,000/-

The enhanced amount of compensation of Rs.01,00,000/- 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 recovery rights shall remain unaltered. However, the compensation be distributed equally among claimants i.e appellants as well as respondent No. 5 (i) (ii).

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

31.10.2019
G Arora

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>