IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O No. 9717-2014
Date of decision:- 21.08.2019

Future Generali India Ins. Co. Ltd. ...Appellant

Versus

Charanjit Kaur and others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Vishal Aggarwal, Advocate
for the appellant.

Mr. Aruz Khan, Advocate
for respondent No. 5 to 9.

RITU BAHRI J. (Oral)

1. The present appeal has been filed by the Insurance Company against award dated 01.08.2014 passed by the learned Motor Accident Claims Tribunal, Ludhiana whereby the claimants were granted compensation to the tune of Rs.12,60,056/- on account of death of Gurminder Singh

Facts not in dispute

2. The facts which are not in dispute are that on 14.09.2012, Gurminder Singh along with Pritam Singh had gone to one factory near Sahnewal for unloading the machines and after unloading of the machines, they were coming back on their tractor. The tractor was being driven by Gurminder Singh. When they were just ahead of Sahnewal chownk towards Ludhiana on G.T. Road, one tractor trolla bearing registration No. PB-11-AH-8193 driven by respondent No. 5 in a rash and negligent manner came from behind and was brought on the line of tractor of Gurminder Singh

without giving any signal and struck from behind. Due to this, Gurminder Singh and Pritam Singh fell down from the tractor and received multiple and grievous injuries. Gurminder Singh succumbed to his injuries in the hospital. F.I.R. No. 146 dated 14.09.2012 under Sections 304-A IPC at P.S. Sahnewal.

3. As per the Tribunal, the deceased-Gurminder Singh in the present case was 41-42 years old at the time of the accident. The Tribunal took the income of the deceased at Rs.10000/- per month and 1/3rd was deducted towards personal expenses and thereafter, applied the multiplier of 14, in view of ***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77.*** Rs.1,00,000/- were awarded towards loss of consortium, Rs.25,000/- towards loss of love and affection. Rs.5000/- towards loss of estate and Rs.10,000/- towards funeral expenses. The total compensation awarded to the claimants was Rs.12,60,056/-.

3. Learned counsel for the appellant-Insurance Company has argued that the compensation awarded to the claimants is on the higher side, as the income is taken on the higher side and the claimants have been awarded in excess under conventional head. However, learned counsel for the appellant is not disputed that the accident had taken place.

4. On the other hand, the learned counsel for the respondent-claimants has vehemently opposed the present appeal.

5. I have heard learned counsel for the parties and perused the record.

6. 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.".

8. 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)	25% of (i) above to be added as future prospects=	Rs.6000+Rs.1500=Rs.7500/- per month
(iii)	1/3rd of (ii) deducted as personal expenses of the deceased=	Rs.7500-Rs.2500=Rs.5000/- per month
(iv)	Compensation after multiplier of 14 is applied	Rs.5000X 12 X 14= Rs.08,40,000/-
(v)	Conventional heads (Loss of estate and funeral expenses, loss of consortium)	Rs.70,000/-
(vi)	Loss of filial consortium (parents)	Rs.40,000/-
(vii)	Loss of consortium (children)	Rs.80,000/-(Rs.40,000/- each)
(viii)	Total Compensation to be awarded now	Rs.10,30,000/-

09. Accordingly, the appeal stands disposed of and the compensation of Rs.10,30,000/- 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% per annum 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. It is hereby

directed that the amount of Rs.25,000/- deposited by the appellant, vide draft No. 683743 dated 21.11.2014, at the time of filing of appeal in the Registry of this Court be returned to him.

21.08.2019 **(RITU BAHRI)**
G Arora ***JUDGE***

Whether speaking/reasoned	***Yes***
Whether reportable	***No***