IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O No. 6586 of 2017 (O&M)
Date of decision:- 16.07.2019

Neelam and ors. ...Appellants

Versus

Nirmal and others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Surinder Saini, Advocate,
for the applicants-appellants

Mr. Varun Sharma, Advocate
for respondent-Insurance Company.

RITU BAHRI J. (Oral)

C.M. No.21229-CII-2017

For the reasons mentioned in the application, delay of 41 days in filing of the appeal is condoned.

The application stands disposed of accordingly.

F.A.O No. 6586-2017

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, Yamuna Nagar at Jagadhari (for short, 'the Tribunal') to the tune of Rs.10,60,000/- vide impugned award dated 18.11.2016 on account of death of Jagir Singh in a road accident on 30.05.2015.

2. As per the case of the claimants, on 30.05.2015 the deceased-Jageer Singh and Avtar Singh were riding on motorcycle bearing registration No. HR-01Y-9695 and were coming from the side of Dosarrka-

Mullana towards bus stand of village Dheen where one Ram Pal, real brother of Jagir Singh and cousin brother of Avtar Singh were present in wait of bus. The motorcycle was being driven by Avtar Singh and Jagir Singh was a pillion rider. When they crossed bus stand at about 6 P.M, one car bearing No. HR-01-T-9741 came from the side of Jagadhari being driven by respondent No. 1 in a rash and negligent manner struck against the motorcycle, due to which the deceased fell down on the road and the motorcycle skidded by the side of the road and went in the pit. Avtar Singh died on the spot and Jagir Singh was taken to M.M. Hospital Mullana where he was declared dead. F.I.R No. 99 under Sections 279/304-A IPC was registered against respondent No. 1 at P.S. Mullana on 30.05.2012 by Ram Pal.

3. While assessing the compensation, the Tribunal took the income of the deceased-Jagir Singh at Rs.6000/- per month and 1/4th was deducted towards personal expenses and thereafter, applied the multiplier of 15, in view of ***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77.*** Further the Tribunal awarded Rs.25,000/- towards funeral expenses, Rs.1,25,000/- on account of loss of love and affection and Rs.1,00,000/- on account of loss of consortium. The total compensation awarded to the claimants was Rs.10,60,000/-.

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 the enhanced, as the Tribunal has not awarded future prospects and the income per month taken by the tribunal is on the lower side.

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 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 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 should have been taken to Rs.7600/- per month (minimum wages). Further the parents and child 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.7600/- per month
(ii)	40% of (i) above to be added as future prospects=	Rs.7600+Rs.3040=Rs.10640/- per month
(iii)	1/4th of (ii) deducted as personal expenses of the deceased=	Rs.10640-Rs.2660=Rs.7980/- per month
(iv)	Compensation after multiplier of 15 is applied	Rs.7980X 12 X 15= Rs.14,36,400/-
(v)	Conventional heads (Loss of estate, funeral expenses, loss of consortium)	Rs.70,000/-
(vi)	Loss of filial consortium (parents)	Rs.2,00,000/-(Rs.40,000/- each to child and parents)
(vii)	Total Compensation awarded	Rs.17,06,400/-
	Enhanced amount of compensation	**1706400-1060000=Rs.6,46,400/-** **(rounded of to Rs.6,46,000/-)**

11. The enhanced amount of compensation of Rs.6,46,000/- 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.

16.07.2019 **(RITU BAHRI)**

G Arora ***JUDGE***

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