

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

1. F.A.O No. 6137 of 2018

Saroj Bala and ors.

...Appellants

Versus

Subhash and others

...Respondents

2. F.A.O No. 6138 of 2018

Mamta and ors.

...Appellants

Versus

Subhash and others

...Respondents

Date of decision:- 01.11.2019

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Sanchit Punia, Advocate
for the appellants

Mr. Vinod Gupta, Advocate
for respondent/Insurance Co.

RITU BAHRI J. (Oral)

1. This order shall dispose of the above two appeals whereby the claimants are 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.29,48,200/- in FAO No. 6137-2018 and Rs. 11,19,800/- in FAO No. 6138-2018, vide impugned award dated 11.09.2017.

2. As per claimants, on 5.3.2015 at about 10 PM deceased Sonu alongwith his friends Sampat, Rakesh and Sukhbir was coming from Fatehabad to Hisar in a Ford Figo Car No.HR-22G/6205 which was being driven by Sukhbir. When they reached near Bagla Road, the offending tractor bearing registration No.HR-21J/0263 with which a mixer Rehra was

attached came at a very high speed being driven by respondent No.1 rashly and negligently but the tractor rammed into the car due to which two persons Sonu and Rakesh died and other two persons Sampat and Sukhbir were injured. Rakesh had died on the spot of accident whereas Sonu had died in Sarvodaya Hospital on the second day of the accident. F.I.R No. 191 dated 06.03.2015 was registered under Sections 283/279/337/304-A IPC against respondent No. 1.

3. While assessing compensation in claim petition No. 51-2015, the Tribunal took the income of the deceased-Rakesh at Rs.20000/- per month and 1/3rd was deducted towards personal expenses and applied the multiplier of 17. Rs.1,00,000/- were awarded on account of loss of consortium, Rs.25,000/- were awarded towards funeral expenses, Rs.50,000/- were awarded towards love and affection, Rs.50000/- were awarded towards loss of estate and Rs.10,000/- were awarded on account of transportation expenses. The total compensation awarded to the claimants was Rs.29,48,200/-.

4. While assessing compensation in claim petition No. 52-2015, the Tribunal took the income of the deceased-Sonu at Rs.8400/- per month and 1/2 was deducted towards personal expenses and applied the multiplier of 17. Rs.1,00,000/- were awarded on account of loss of consortium, Rs.25,000/- were awarded towards funeral expense, Rs.50,000/- were awarded towards love and affection, Rs.50000/- were awarded towards loss of estate, Rs.10,000/- were awarded on account of transportation expenses, Rs.18,000/- were awarded towards medical expenses and Rs.10,000/- were awarded towards attendant charges. The total compensation awarded to the claimants was Rs.11,19,800/-.

5. 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, as no future prospects have been awarded.

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

7. I have heard learned counsel for the parties

8. 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.

8. Further the children as well as parents 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***.

9. 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.”.

10. 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.20,000/- per month
(ii)	40% of (i) above to be added as future prospects=	Rs.20,000+Rs.8000=Rs.28000/- per month
(iii)	1/3 rd of (ii) deducted as personal expenses of the deceased=	Rs.28000-Rs.9333=Rs.18667/- per month
(iv)	Compensation after multiplier of 17 is applied	Rs.18667 X 12 X 17= Rs.38,08,068/-
(v)	Conventional heads (Loss of estate, consortium and funeral expenses)	Rs.70,000/-
(vi)	Loss of fillail consortium (parents)	Rs.80,000/- (Rs.40,000/- each)
	Total Compensation awarded	Rs.39,58,068/-
	Enhanced amount of compensation	39,58,068-29,48,200=Rs.10,09,868/- (rounded off to Rs.10,09,000/-)

DECEASED-SONU

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(i)	Income	Rs.8400/- per month
(ii)	40% of (i) above to be added as future prospects=	Rs.8400+Rs.3360=Rs.11760/- per month
(iii)	1/3 rd of (ii) deducted as personal expenses of the deceased=	Rs.11760-Rs.3920=Rs.7840/- per month
(iv)	Compensation after multiplier of 17 is applied	Rs.7840 X 12 X 17= Rs.15,99,360/-
(v)	Conventional heads (Loss of estate, consortium and funeral expenses)	Rs.70,000/-
(vi)	Medical Expenses	Rs.18000/-
(vii)	Attendant charges	Rs.10000/-
(viii)	Loss of fillail consortium (parents)	Rs.80,000/- (Rs.40,000/- each)
	Total Compensation awarded	Rs.17,77,360/-
	Enhanced amount of compensation	17,77,360-11,19,800=Rs.06,57,560/- (rounded off to Rs.06,57,000/-)

11. The enhanced amount of compensation of Rs.10,09,000/- in
FAO No. 6137-2018 and Rs.06,57,000/- in FAO No. 6138-2018 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 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.

01.11.2019
G Arora

(RITU BAHRI)
JUDGE

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