

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

F.A.O No. 1426 of 2016 (O&M)

Date of decision:- 24.07.2019

Passo Devi and ors.

...Appellants

Versus

Lakha Singh & ors.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. L.S. Sidhu, Advocate,
for the appellants

Ms. Manpreet Kaur, Advocate
for respondent No.1.

Mr. S.P. Arora, Advocate
for respondent No. 3

RITU BAHRI J. (Oral)

C.M. No.5120-CII-2016

For the reasons mentioned in the application, delay of 756 days
in re-filing of the appeal is condoned.

The application stands disposed of accordingly.

F.A.O No. 1426-2016

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, Patiala (for short, 'the Tribunal') to the tune of Rs.08,13,500/- vide impugned award dated 03.08.2013 on account of death of Kalu Ram on 09.01.2011 .

2. As per claimants, on 09.01.2011, the deceased-Kalu Ram along with his wife Passo Devi came at Dua Hospital, Badshahpur for taking medicine on their motorcycle without number and after taking medicine

they were going to their village from Badshahpur on Badshahpur-Shutrana road. Inder Ram and Veeru Ram were following them on their separate motorcycle. When they reached near GS Resort, the offending vehicle was seen coming from Shutrana side being driven by respondent No. 1 in a rash and negligent manner, collided with motorcycle of the deceased. Due to which, the deceased and his wife fell down on the road and sustained grievous injuries. Kalu Ram died on the spot. F.I.R No. 6 dated 09.01.2011 under Sections 304-A IPC was registered against respondent No. 1 at P.S. Ghagga.

3. While assessing compensation, the Tribunal took the income of the deceased at Rs.4500/- per month and 1/4th was deducted towards personal expenses and thereafter, applied the multiplier of 17, in view of ***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77.*** Rs.25,000/- were awarded towards funeral expenses and Rs.1 lacs towards loss of consortium. The total compensation awarded to the claimants was Rs.08,13,500/-.

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, as the Tribunal has not awarded future prospects.

5. On the other hand, the learned counsel for the respondent-driver has vehemently opposed the present appeal and submits that the claimants have been awarded in excess under conventional heads.

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.

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 claimants have not proved that the deceased was working as mason but the income can be taken to be that of skilled labourer i.e Rs.5000/- per month. Further the parents and children 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.5000/- per month

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
(ii)	40% of (i) above to be added as future prospects=	Rs.5000+Rs.2000=Rs.7000/- per month
(iii)	1/4 th of (ii) deducted as personal expenses of the deceased=	Rs.7000-Rs.1750=Rs.5250/- per month
(iv)	Compensation after multiplier of 17 is applied	Rs.5250X 12 X 17= Rs.10,71,000/-
(v)	Conventional heads (Loss of estate, loss of consortium and funeral expenses)	Rs.70,000/-
(vi)	Loss of filial consortium (parents and two minor children)	Rs.1,60,000/-(Rs.40,000/- each)
(vii)	Total Compensation awarded	Rs.13,01,000/-
	Enhanced amount of compensation	1301000-813500=Rs.4,87,500/-

11. The enhanced amount of compensation of Rs.4,87,500/- shall be payable within a period of forty five days from the date of receipt of certified copy of this order. Since there was a delay of 756 days in re-filing of the appeal, the appellants will not get the interest of the above period. However, the appellants shall get interest @ 9% per annum from the date of filing of the claim petition, in view of the 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.*

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

24.07.2019

G Arora

(RITU BAHRI)

JUDGE

Whether speaking/reasoned

Whether reportable

Yes

No