

Date of decision:- 26.9.2019.

Versus

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

RITU BAHRI J. (Oral)

CM-28748-CII-2018

For the reasons mentioned in the application, delay of 858 days in filing of the appeal is condoned subject to the condition that the claimants will not be paid any interest by respondent No. 2 beyond 365 days.

Application stands disposed of.

F.A.O No. 16163-2018

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. 6,05,000/- to claimants.

2. As per claimants, on 17.12.2013, Kartar Singh with Sanjay were going from Village Charnod to Hisar on motorcycle. Kartar Singh was driving the motorcycle. When they reached on National Highway a bus registration No. RJ-18-PA-5536 being driven by respondent No. 1- Rajesh came in rash and negligent manner and struck into the motorcycle.

As a result both Kartar Singh and Sanjay got multiple injuries. Kartar

vehicle in question fled away from the spot. F.I.R was duly registered in this regard.

3. Assessment of compensation: -

A perusal of the record shows that Kartar Singh received serious injuries in the accident and died at the spot. He was 23 years of age as per post mortem report Ex. P48. The Tribunal took the income of the deceased as Rs. 6000/- per month as per minimum wages and applied the multiplier of 18 after deducting the 1/3 as dependency. The Tribunal further held that the deceased would have married about in a period of five years and applied a cut of 1/3rd i.e. Rs. 2000/- per month. Hence, the compensation was assessed as Rs. (4000X12x5) = Rs. 2,40,000/- + (Rs. 2000x12x13) Rs. 3,12,000/- i.e. Rs. 2,40,000/- + Rs. 3, 12,000/- which comes to Rs. 5,52,000/-. The Tribunal assessed the compensation as under: -

1.	Total dependency	Rs. 5,52,000/-
2.	Funeral Expenses	Rs. 25,000/-
3.	Love and affection	Rs. 25,000/-
4.	Transport	Rs. 3000/-
	Total	Rs.6,05,000/-

4. The learned counsel for the claimants-appellants contends that the compensation awarded by the learned Tribunal to the present appellants is on the lower side and deserves to be enhanced. He further submits that the deceased was 23 years of age.

5. On the other hand, the learned counsel for the respondents-driver has vehemently opposed the present appeal on the ground that the claim petition is not maintainable as the claimants have no locus standi or

cause of action and that the driver of the offending vehicle was not having effective and valid driving licence. Learned counsel for respondents further took the plea that accident had occurred due to sole negligence of the deceased.

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

7. Parties are also not disputing the findings on issue No. 1. The said findings have been given in favour of the appellants-claimants.

8. Further the parents 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*** .

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.”.

11. 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.6000/- per month
(ii)	40% of (i) above to be added as future prospects=	Rs.6000 + Rs. 2400/- Rs.8400/- per month
(iii)	Since he was bachelor, 50% is to be deducted as personal expenses	Rs. 4200/- per month
(iv)	Compensation after multiplier of 18 is applied	Rs. 4200 X 12 X 18= Rs.9,07,200/-
(v)	Conventional heads (Loss of estate and funeral expenses) of	Rs.30,000/-
(vi)	Loss of filial consortium (parents)	Rs.80,000/-(Rs.40,000/- each)
(vii)	Total Compensation awarded	Rs.10,17,200/-
	Enhanced amount of compensation	Rs. 10,17,200-6,05,000/- = Rs. 4,12,200/-

12. The enhanced amount of compensation of Rs. 4,12,200/- shall be payable within a period of forty five days from the date of receipt

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.

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

26.09.2019
preeti

(RITU BAHRI)
JUDGE

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