

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

**FAO No.16289 of 2018
Date of Decision:-17.12.2019**

Reena Rani and another

...Appellants

Versus

Ranjit Singh and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Rishav Jain, Advocate
for the appellants.

Mr. Vishal Moudgil, Advocate
for respondent No.2-PRTC.

RITU BAHRI J.(Oral)

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, Sangrur, (for short, 'the Tribunal') to the tune of Rs.20,35,347/- vide impugned award dated 24.10.2017.

As per claimants, on 08.10.2016, deceased Sahil Garg while driving an Indica Vista car bearing No. HR-29U-7944 was going to Sangrur from Dhuri. This car was being driven by him at a normal speed and on correct side of the road. Harish Kumar son of Vijay Kumar, resident of Ward No.11A, H.No. 140, Shivpuri Mohalla, Dhuri and Munish Kumar son

of Ashok Kumar, resident of Barnala Road, Dhuri were coming behind him in their separate Hyundai i20 car bearing No.PB-03AD-0177. At about 3:15 P.M. when they were about 1 Km behind the over bridge situated at Dhuri Road, Sangrur, a PRTC bus bearing No.PB-13R-4632 (hereinafter to be referred to as offending bus) driven by respondent no.1-Ranjit Singh in a rash and negligent manner came from the side of Sangrur. The offending bus while crossing the Indica Car struck against it and on account of which the car of the deceased turned turtle on left side of the road. The bus also turned turtle on right side of the road. Due to this accident, Sahil Garg received multiple injuries and succumbed to the same on the spot. On the basis of statement suffered by Harish Kumar, FIR no.349 dated 08.10.2016, under section 304- A/279/427 of IPC came to be registered against respondent no.1 in police station City Sangrur.

While assessing compensation, the Tribunal took the income of the deceased at Rs.18,180/- per month and cut of 50% was imposed. 30% future prospects was also given. The Tribunal applied the multiplier of 14. Rs.25,000/- were granted under the head of funeral expenses and a sum of Rs.25,000/- were granted towards loss of estate. The total compensation awarded to the claimants was Rs.20,35,347/-.

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.

On the other hand, learned counsel appearing for respondent No.2 has vehemently opposed the present appeal.

I have heard learned counsel for the parties and perused the

record.

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.

Further the 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** .

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.”

In the present case, the compensation is being reassessed as per judgments mentioned above.

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
i	Income	Rs.18,180/-P.M.
ii	40% of (i) above to be added as future prospects=	Rs.18180+Rs.7272=Rs.25452/- per month
iii	1/2 of (ii) deducted as personal expenses of the deceased=	Rs.25452-Rs.12726=Rs.12726/- per month
iv	Compensation after multiplier of 18 is applied	Rs.12726 X 12 X 18= Rs.27,48,816/-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculations</i>
v	Funeral expenses	Rs.15,000/-
vi	Loss of estate	Rs.15,000/-
vii	Loss of consortium (parents)	Rs.80,000/- (Rs.40,000/- each)
	Total Compensation awarded	Rs.28,58,816/-
	Enhanced amount of compensation	28,58,816-20,35,347= Rs.08,23,469/-)

The enhanced amount of compensation of Rs.08,23,469/- 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.

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

December 17, 2019
Vijay Asija

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No