IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O No. 160 of 2019
Date of decision:- 23.10.2019

Asgar Ali and others ...Appellants

Versus

Ram Karan & ors. ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Namit Khuranna, Advocate for the appellants.

Mr. Man Mohan, Advocate for respondent No. 3

RITU BAHRI J.(Oral)

C.M. No. 595-CII-2019

Reply filed on behalf of respondent No. 3 in the Court today is taken on record.

For the reasons mentioned in the application, delay of 117 days in filing of the appeal is condoned.

The application stands disposed of accordingly.

F.A.O No. 160-2019

1. The present appeal has been preferred by the appellants (for short 'the appellant') against the award dated 18.04.2018 passed by the learned Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhari (for short, 'the Tribunal') whereby learned Tribunal has granted the compensation to the appellants to the tune of Rs.6,10,000/-.

FACTS NOT IN DISPUTE

2. On 24.02.2017, deceased Akhtari in the company of her husband namely Asgar Ali were riding on auto cycle i.e Vicky bearing registration No. HR-02-AD-0486. When they reached near Vishwakarma

chownk on Radaur-Yamuna Nagar road, then a bus bearing registration No. HR-58-A-7351 of Haryana Roadways, Yamuna Nagar being driven by respondent No. 1 came in rash and negligent manner and hit the auto cycle. The occupants of the said auto cycle fell down and sustained grievous injuries. Both were shifted to Civil Hospital, Yamuna Nagar where Akhtari was declared brought dead. F.I.R No. 69 dated 25.02.2017 u/ss 279/337/304-A IPC was registered at P.S. Farakpur against respondent No. 1.

3. The learned tribunal held that the deceased was 55 years old and was a house wife doing the work of sewing, embroider and knitting. She was held to be earning Rs. 5000/- per month. The factum of accident had been proved and the offending vehicle was insured with respondent No.3-Insurance Company.

Sr. No.	***Heads***	***Calculations***
(i)	Income	Rs.5000/- per month
(ii)	Compensation after multiplier of 09 is applied	Rs.5000 X 12 X 9= Rs.5,40,000/-
(iii)	Loss of consortium	Rs.40,000/-
(iv)	Funeral Expenses	Rs.15,000/-
(v)	Loss of estate	Rs.15,000/-
	Total compensation	Rs.6,10,000/-

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. Learned counsel submits that the Tribunal has erred in law by taking the income of the deceased at Rs.3000/- per month only.

5. On the other hand, the learned counsel for the respondent has vehemently opposed the present appeal.

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

record.

RE-ASSESSED COMPENSATION

7. It is not in dispute that the offending vehicle was fully insured with the Insurance company.

8. Reference at this stage can be made to a judgment of this Court in a case of ***United India Insurance Co. Ltd vs. Sube Singh and others, passed in FAO No. 218-2014, decided on 15.01.2014*** wherein this Court while dismissing the appeal filed by the Insurance Company against the award of the Tribunal wherein the Tribunal took the income of a house wife at Rs.9000/- per month, held that to tag a house wife as skilled labour alone does not do complete justice to her multifarious role as home manager. House wife is something more than mere skilled worker and it would not be reasonable to estimate contribution of deceased at high figure. The SLP filed against the said judgment has also been dismissed.

9. Further the children 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*** .

10. 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. Following the ratio of law laid down by Hon'ble the Supreme Court in the above mentioned judgments, the compensation has to be re-assessed as follows:-

Sr. No.	***Heads***	***Calculations***
(i)	Income	Rs.9000/- per month
(ii)	10% of (i) above to be added as future prospects=	Rs.9000+Rs.900=Rs.9900/- per month
(iii)	Compensation after multiplier of 09 is applied	Rs.9900 X 12 X 9= Rs.10,69,200/-
(iv)	Conventional heads (Loss of estate, loss of consortium and funeral expenses)	Rs.70,000/-
(v)	Loss of consortium (children)	Rs.1,60,000 (Rs.40,000/- each)
(vi)	Total Compensation awarded	12,99,200/-
	Enhanced amount of compensation	Rs.12,99,200-Rs.6,10,000=**Rs.06,89,200/- (rounded off to Rs.06,89,000/-)**

12. Resultantly, the enhanced amount of compensation of ***Rs.06,89,000/-*** shall be payable within a period of forty five days from the date of receipt of certified copy of this order. The enhanced amount of compensation shall carry interest @ 9% per annum from the date of filing of the claim petition, till its realization, 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.

13. With the aforesaid modification in the impugned award, the appeal is allowed to the above extent.

23.10.2019 (***RITU BAHRI***)
G Arora ***JUDGE***

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