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

**F.A.O No. 2385 of 2018 &
Cross Objection No. 125-CII of 2018
Date of decision:- 12.07.2019**

Oriental Insurance Co Ltd. ...Appellant

Versus

Satbir and others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. S.S. Sidhu, Advocate, for the appellant.

Mr. Sumit Gupta, Advocate
for cross objector/respondent No. 1 and 2

RITU BAHRI J. (Oral)

1. Appeal and cross objection, as noticed above, are being disposed of by this common judgment, having arisen out of the impugned award dated 16.01.2018 passed by the learned Motor Accident Claims Tribunal, Jhajjar.

Facts not in dispute

2. The facts which are not in dispute are that on 27.09.2016, Manjeet was going to hotel situated opposite HSIDC on his TVS scooty bearing registration No. HR-13K-2403 and when he reached near NH-10 HSIDC Maur, in the meantime, offending vehicle i.e Haryana Roadways bus bearing No. HR-46D-1191 driven in a rash and negligent manner came from Bahadurgarh side and struck against the scooty of the deceased. In this accident, the deceased Manjeet fell down on the road and received multiple and grievous injuries. The appellant was shifted to Civil Hospital, Bahadurgarh from where he was referred to PGIMS Rohtak. F.I.R No. 512 dated 27.09.2016 under Sections 279/304-A IPC was registered at P.S.

Bahadurgarh.

3. As per the claimants, the deceased in the present case was 19 years old at the time of the accident and was working in HSIDC as a Security Guard. He was employed through M/s Chaudhary Security service.

4. While assessing the compensation, the Tribunal took the income of the deceased-Manjeet at Rs.9000/- per month and 1/2 was deducted towards personal expenses. 40% future prospects have been given and thereafter, applied the multiplier of 18. Further the Tribunal awarded Rs.30,000/- towards funeral expenses and loss of estate. The total compensation awarded to the claimants was Rs.13,90,800/-.

4. The learned counsel for the appellant-Insurance Company contends that the compensation awarded by the learned Tribunal is on the higher side and deserves to the reduced. The Insurance Company has challenged the award on account of the income taken by the learned Tribunal. Further it has been argued that the multiplier should have been applied by taking the age of parents.

5. On the other hand, the learned counsel for the cross objector-respondent No. 1 and 2/claimants submits that the compensation awarded by the Tribunal is on the lower side.

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

7. With regard to the appeal filed by the Insurance Company, it is liable to be dismissed as the Tribunal has taken the income on lower side instead of higher side and further the multiplier has rightly been applied by taking the age of the deceased. But the cross objection filed by the claimants is liable to be partly allowed as the minimum wages of skilled labourer at

the time of accident was Rs.10780/- per month.

8. With regard to the cross objection filed by the cross objectors, the compensation is liable to be reassessed by taking the monthly income of the deceased at Rs.10000/- per month to be that of skilled labourer.

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:-

Sr. No.	***Heads***	***Calculations***
(i)	Income	Rs.10000/- per month
(ii)	40% of (i) above to be added as future prospects=	Rs.10000+Rs.4000=Rs.14000/- per month
(iii)	1/2 of (ii) deducted as personal expenses of the deceased=	Rs.14000-Rs.7000=Rs.7000/- per month
(iv)	Compensation after multiplier of 18 is applied	Rs.7000X 12 X 18= Rs.15,12,000/-
(v)	Conventional heads (Loss of estate, funeral expenses)	Rs.30,000/-
(vii)	Total Compensation awarded	Rs.15,42,000/-
	Enhanced amount of compensation	**1542000-1390800=Rs.151,200/-** **(rounded of to Rs.1,51,000/-)**

11. The enhanced amount of compensation of Rs.1,51,000/- 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% from the date of filing of the claim petition, 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.

10. Accordingly, the award stands modified to the above extent and the appeal filed by the appellant stands dismissed and the cross objections filed by cross objectors/respondent Nos. 1 and 2 is partly allowed to the extent that the claimants are entitled to enhanced compensation of Rs.1,21,000/- along with 9% interest per annum.

12.07.2019 **(RITU BAHRI)**
G Arora ***JUDGE***

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