IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**FAO No. 5243 of 2015 (O&M)**
**Date of decision: August 13, 2015**

**United India Insurance Company Limited**

**…. Appellant**

**Versus**

**Smt. Kirni Bai and others**

**…. Respondents**

**CORAM : HON'BLE MR. JUSTICE SURINDER GUPTA**

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Present : Mr. Sanjeev Pabbi, Advocate
for the appellant.

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**SURINDER GUPTA, J.**

**CM-16319-CII-2015**

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

CM is allowed.

**FAO-5243-2015 (O&M)**

This is an appeal against the award dated 3.03.2015 passed by Motor Accident Claims Tribunal, Bhiwani (herein referred as the Tribunal), whereby the claim petition filed by respondents-Kirni Bai and others seeking compensation for the death of Jaswant son of Raghubir Singh, was allowed and a compensation of ₹15,02,000/- was awarded.

Heard.

Learned counsel for the appellant has argued that the Tribunal has wrongly allowed 50% towards future prospects, particularly when the matter is under consideration before the Hon'ble Apex Court in the reference

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made in case of ***National Insurance Company Limited Vs. Pushpa and others*** **Appeal (C) No.8058 of 2014 decided on 02.07.2014.**

In the case of ***National Insurance Company Limited Vs. Pushpa and others (supra)***, while differing with the view taken in case of ***Sarla Verma and others Vs. Delhi Transport Corporation (2009)6 SCC 121,*** it was observed as follows:-

> "18. Therefore, we do not think that while making the observations in the last three lines of para 24 of ***Sarla Verma*** judgment, the Court had intended to lay down an absolute rule that there will be no addition in the income of a person who is self-employed or who is paid fixed wages. Rather, it would be reasonable to say that a person who is self-employed or is engaged on fixed wages will also get 30% increase in his total income over a period of time and if he/she becomes the victim of an accident then the same formula deserves to be applied for calculating the amount of compensation."

In case of ***Rajesh and others Vs. Rajbir and others (2013)9 SCC 54,*** a three Judges Bench of Hon'ble Apex Court has observed in para 11 and 12 as follows:-

> "11. Since, the Court in **Santosh Devi's case** (supra) actually intended to follow the principle in the case of salaried persons as laid in **Sarla Verma's case** (supra) and to make it applicable also to the self-employed and persons on fixed wages, it is clarified that the increase in the case of those groups is not 30% always; it will also have a reference to the age. In other words, in the case of self-employed or persons with fixed wages, in case, the deceased victim was below 40 years,

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there must be an addition of 50% to the actual income of the deceased while computing future prospects. Needless to say that the actual income should be income after paying the tax, if any. Addition should be 30% in case the deceased was in the age group of 40 to 50 years.

12. In **Sarla Verma's case** (supra), it has been stated that in the case of those above 50 years, there shall be no addition. Having regard to the fact that in the case of those self-employed or on fixed wages, where there is normally no age of superannuation, we are of the view that it will only be just and equitable to provide an addition of 15% in the case where the victim is between the age group of 50 to 60 years so as to make the compensation just, equitable, fair and reasonable. There shall normally be no addition thereafter. "

Reference was made to a larger Bench in case of ***National Insurance Company Limited Vs. Pushpa Devi and others (supra)***, on 02.07.2014. In the recent judgment dated May 15, 2015 in case titled ***Munna Lal Jain and others Vs. Vipin Kumar Sharma and others 2015(3) RCR (Civil) 447,*** a three Judges Bench of Hon'ble Apex Court allowed future prospects in the case of self-employed persons following the observations made in case of ***Rajesh and others Vs. Rajbir and others (supra)***. As the view taken in case of ***Rajesh and others Vs. Rajbir and others (supra)*** has been followed by the Hon'ble Apex Court in ***Munna Lal Jain and others Vs. Vipin Kumar Sharma and others (supra)***, the Tribunal committed no error while allowing 50% of the income towards future prospects while allowing the compensation to the claimants.

No interference on this score is called for.

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No other point has been argued by learned counsel for the appellant.

This appeal has no merits. Dismissed.

**August 13, 2015** **(SURINDER GUPTA)**
*deepak* **JUDGE**