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

FAO No.5583 of 2015 (O&M)
Date of Decision: October 28, 2015.

The New India Assurance Co. Ltd.

..........APPELLANT(s).

VERSUS

Saroj Devi and others

........RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Suvir Dewan, Advocate
for the appellant (s).

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SURINDER GUPTA, J.

This is an appeal filed by the Insurance-Company against the award dated 06.05.2015 passed by Motor Accident Claims Tribunal, Chandigarh (later referred to as the Tribunal) whereby compensation to the tune of ₹14,84,425/- was awarded to the claimants-respondents No.1 to 3 on account of death of Sharmila Gupta @ Sharmila Sharma in a motor accident.

As per the claimants, the accident took place on 07.05.2013 at about 2.20 p.m., Sharmila Gupta @ Sharmila Sharma (deceased) was going to Sector 17 Chandigarh on her scooter make '*Honda Aviator*' bearing registration No.PB-65T-8970 when near the slip road of Sector-10 near Chowk of Sectors 10-11, 15-16, a CTU local bus bearing registration No.CH-01-GA-5090 (later referred to as the offending vehicle) came from behind at a high speed and hit the scooter of the deceased, as a result of which, she fell down and suffered head injuries resulting in her death at the spot.

The appellant, who is insurer of the bus, has challenged the award on short ground that the Tribunal has wrongly allowed 50% addition to the income of the deceased towards future prospects, as such, the facts of the case are not being discussed in detail.

Learned counsel for the appellant has argued that the Tribunal has wrongly allowed 50% addition in income of the deceased towards future prospects, particularly when the matter is under consideration before the Hon'ble Apex Court in the reference made in case of ***National Insurance Company Limited Vs. Pushpa and others*** **Appeal (C) No.8058 of 2014 decided on 02.07.2014(MANU/SC/1246/2014).**

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 and Anr. (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, 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.
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> 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 of Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pushpa 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)***.

The concept of future prospects envisages chances or opportunities for success and further progress in life which is a normal course of event for every human being involved in any avocation. Even if, keeping in view his ability, capacity etc., one may not be in a position to rise in life, there is another aspect which justifies the grant of addition in the income of the deceased, which is the 'inflationary trend' in which we all are living. For instance, I take example of an unskilled labourer. It is a matter of common knowledge that daily wage of an unskilled labourer, about a decade ago, was around ₹120 to ₹160 but today the same are around ₹200 to ₹300 per day, depending upon city, location etc. This is because of high increase in the cost of living. The dependants have also to face the same situation. The amount of compensation is required to be just and reasonable keeping the inflationary trend in view, where the prices of the basic amenities of life are likely to increase further.

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% addition of the income towards future prospects while allowing the compensation to the claimants.

No interference on this score is called for.

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

This appeal has no merits. Dismissed.

(SURINDER GUPTA)
October 28, 2015. **JUDGE**
Sachin M.