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

**FAO No.4670 of 2002 (O&M)**
**Date of Decision: 10.11.2017**

Sarita Gaur and others ... Appellants

Versus

Amar Singh and another ... Respondents

**CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA**

Present: Mr. Anil Shukla, Advocate,
for the appellants.

Mr. Ravinder Arora, Advocate,
for the respondent-Insurance Company.

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**RAJIV NARAIN RAINA, J.(Oral)**

1. This is an appeal by the claimants for enhancement of compensation arising from the death of Ghanshyam Dass in a road accident. Ghanshyma Dass was employed as a CTO in UCO Bank, Branch Supreme Court, New Delhi.

2. The accident took place on January 22, 2001. The Tribunal assessed the income of the deceased at ₹12,000/- per month and age more than 43 years. The date of birth of the deceased was November 14, 1957. He left behind his widow, minor son, minor daughter and mother at the time of death.

3. The Tribunal has awarded compensation to the tune of ₹13,50,000/- out of which ₹6000/- were towards funeral expenses. The

multiplier applied is 14 which is appropriate for the age. The Tribunal applied 1/3rd cut in the annualized salary to work out the dependency. One fourth of the dependency is to be deducted.

4. Though the mother was not a claimant but the Tribunal made the daughter-in-law liable for maintenance of the mother and accordingly passed the award.

5. Mr. Shukla has produced a calculation sheet to bring the award in line with the law declared on 31.10.2017 by the Supreme Court in Special Leave Petition (Civil) No.25590 of 2014, *National Insurance Company Limited v. Pranay Sethi and others*. The tabulation has been handed over to Mr. Arora for the insurance company. He agrees on all the counts except for compensation for loss of love and affection which Mr. Shukla has assessed at ₹2 lakh. These he argues do not deserve to be allowed. If these ₹2 lakh are added to the fixed components in terms of the judgment in *Pranay Sethi* where the "established income" is documented, the enhancement by way of future prospects would result in compensation of ₹20,71,600/- while keeping aside ₹2 lakh for loss of love and affection as not grantable, accepting the contention of Mr. Arora.

6. As a result, the agreed award is passed. As far as ₹20,71,600/- is concerned, less the amount awarded by the Tribunal brings a net increase of ₹7,21,600/- to the claimants.

7. In the *Pranay Sethi case* the Supreme Court were pleased to structure a fixed formula for funeral expenses, loss of consortium and loss of estate, all three totalling ₹70,000/- as standardized payments in all cases.

8. The ruling of <u>Rajesh and others v. Rajbir and others</u>, (2013) 9

SCC 54 has been held to be no longer good law when it enlarges the conventional heads of compensation. The theory of compensation of loss of love and affection and care and guidance was first expounded in *Rajesh* (Supra) which made this a conventional head, which persuades me not to accept Mr. Shukla's argument for compensation under the head of loss of love and affection and the prayer is disallowed.

9. As a result, this appeal is partly allowed. The award is modified. The claimants are held entitled to ₹20,71,600/- as compensation for the death of Ghanshyam Dass. The net increase is ₹7,21,600/- which will be deposited by the Insurance Company within six weeks before the Executing Court/MACT, Faridabad to be disbursed to the claimants in the ratio and proportion mentioned in the award. The rate of interest is maintained as awarded by the Tribunal.

**(RAJIV NARAIN RAINA)**
**JUDGE**

**10.11.2017**
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*Whether speaking/reasoned* *Yes*

*Whether reportable* *No*