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

FAO-309-2014 (O&M)
Date of decision:- 08.11.2017

Suman and others

....Appellants

Versus

Joginder and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. N.K. Malhotra, Advocate, for the appellants.

Mr. Sukhdarshan Singh, Advocate, for respondent No.3.

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RITU BAHRI J. (Oral)

CM-973-CII-2014

Heard. For the reasons mentioned therein, the application is allowed. Delay of 8 days in filing the appeal is condoned.

FAO-309-2014

Present appeal has been preferred by the appellant against Award dated 26.08.2013, passed by the learned Motor Accident Claims Tribunal, Rohtak (for short, 'the Tribunal') whereby 'The Tribunal' awarded compensation of ₹21,61,000/- along with interest @ 7.5% per annum from the date of filing of petition till realization.

FACTS NOT IN DISPUTE

On 31.10.2010, at about 5.30 a.m. Rajesh (since deceased) was standing near Dhani Wali Peer, Delhi Nahar Pull, Hansi, then in the meanwhile a Santro Car bearing registration No.DL-8CN-7359 being driven by its driver in a rash and negligent manner and at high speed came from the opposite side and struck against Rajesh. Due to impact of the accident, Rajesh fell down in the ditches and became unconscious. The said accident was witnesses by one Sumit son of Satish Kumar and thereafter, Rajesh was taken to General Hospital, Hansi from where he was shifted to Sarvodya Hospital, where he remained admitted till 8.11.2010 and from where he was referred to Shri Ganga Ram Hospital, Delhi and on 15.11.2010 he succumbed to the injuries sustained in the alleged accident. Thereafter the matter was reported to the police and on the basis of which an FIR No.646 dated 04.11.2010, under Sections 279/337 IPC was registered at Police Station, City Hansi, District Hisar.

Consequently, the claimants had filed a claim petition before the Tribunal.

Respondents contested the claim petitions on all accounts. 'The Tribunal' considered the material and evidence available on file, awarded compensation to the tune of ₹21,61,000/- to the claimants.

Being dissatisifed with the awarded amount of compensation, the appellants are in appeal before this Court.

Learned counsel for the claimants-appellants contends that the compensation awarded by the Tribunal is on the lower side and deserves to the enhanced.

On the other hand, the learned counsel for respondent No.3 has vehemently opposed the present appeal.

Reference at this stage can be made to a 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."*

After hearing the learned counsel for the parties, going through the record, this Court is of the considered view that the compensation has rightly been assessed by the Tribunal and the same is not being disputed by the appellants-claimants. However, the small modification under the conventional heads is required to be made as per the latest judgment of Hon'ble the Supreme Court of India in the above-said case. Accordingly, the amount under the conventional heads is being modified as Rs.70,000/- i.e. Rs.15,000/- on account of loss of estate; Rs.40,000/- on account of loss of consortium and Rs.15,000/- on account of funeral expenses and the balance enhanced amount of Rs.30,000/- (Rs.70,000 – Rs.40,000) 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 the judgment of Hon'ble the Supreme Court in a case of **Kumari Kiran through her father Harinarayan Vs. Sajjan Singh and others, 2015(1) SCC 539**.

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

November 08, 2017 **(RITU BAHRI)**
naresh.k **JUDGE**

Whether speaking/reasoned	Yes
Whether reportable	No