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

**F.A.O No. 9692 of 2014
Date of decision:- 24.11.2017**

Sangeeta and ors. ...Appellants

Versus

Krishan Kumar and others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. J.S. Cooner, Advocate
for the appellants

Mr Vikas Mahesmpuri, Advocate
for respondent Nos. 1 and 2.

Mr. M.B. Jain, Advocate
for respondent No. 3

Ms. Monika Jangra, Advocate for
Ms. Vandana Malhotra, Advocate
for respondent No. 6

RITU BAHRI J. (Oral)

1. The present appeal has been preferred by the claimants-appellants, seeking enhancement of the amount of compensation awarded by the learned Motor Accident Claims Tribunal, Patiala (for short, 'the Tribunal') to the tune of Rs.9,85,000/-, vide impugned award dated 15.05.2014.

2. The facts which are not in dispute are that on 22.03.2010, deceased Sikander Bahadur along with his co workers namely Anil Kumar and Babu was involved in shifting of machinery from Eagle Industry Ablowal, Patiala to their another premises situated at Focal Point, Patiala. The deceased and his companions were custodian of goods i.e machinery of factory. They had loaded the machinery from the premises of Eagle Industry Ablowal in Tata 207 bearing registration No.PB-11-A-9075 for transporting the said

machinery to their factory at Focal Point, Patiala. The said Tata 207 was being driven by respondent No. 1.When they reached Sirhind road near Alipur Chownk, Patiala, a horse cart was a little ahead of the said vehicle. Respondent No. 1 tried to overtake the said cart in a rash and negligent manner and in that process the said TATA 207 collided with a Cantre bearing registration No. PB-11-AH-8046 driven by respondent No. 5. The said canter was on the right side of the road. On account of the said accident, Sikander Bahadur had fallen down from Tata 207 and had received multiple injuries on his body. Respondent No. 1 ran away from the spot. Sikant Bahadur was got admitted in Columbia Asia Hospital, Patiala whereby he succumbed to the injuries received by him. F.I.R No. 113 dated 22.03.2010 under Section 279/304-A IPC was registered regarding the said accident.

3. As per the Tribunal, the deceased in the present case was 26 years old at the time of the accident. The Tribunal took the income of the deceased at Rs.72000/- per annum, 1/3rd was deducted towards personal expenses and thereafter, applied the multiplier of 17, in view of ***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77.*** The claimants were awarded Rs.1 lacs towards loss of consortium, Rs.4000/- towards medical expenses, Rs.25000/- towards loss of love and affection to claimant No. 2 and 3, Rs.10000/- towards loss of love and affection to claimant No. 4 and 5, Rs.25,000/- for the last rites and Rs.5000 towards loss of estate. The total compensation awarded to the claimants was Rs.9,85,000/-.

4. The learned counsel for the claimants-appellants contends that the compensation awarded by the learned Tribunal is on the lower side and

deserves to the enhanced, in view of the judgment "***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77', 'Rajesh and others vs. Rajbir Singh and others, 2013 (9) SCC 54' and 'Munna Lal Jain and another vs. Vipin Kumar Sharma and others, 2015(3) Recent Apex Judgments 459', Asha Verman and others vs. Maharaj Singh and others, 2015(2) RCR (Civil) 520 and Kalpanaraj and others v. Tamil Nadu State Transport Corporation, 2015(2) SCC (Civil) 193***.

5. On the other hand, the learned counsel for the respondent-Insurance Company has vehemently opposed the present appeal.

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

7. 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 t***he 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."

8. In the present case, the compensation is being reassessed as per

the judgments mentioned above:-

Sr. No.	***Heads***	***Calculations***
(i)	Salary	Rs.6000/- per month
(ii)	40% of (i) above to be added as future prospects=	Rs.6000+Rs.2400=Rs.8400/- per month
(iii)	1/3rd of (ii) deducted as personal expenses of the deceased=	Rs.8400-Rs.2800=Rs.5600 per month
(iv)	Compensation after multiplier of 17 is applied	Rs.5600 X 12 X 17= Rs.11,42,400/-
(v)	Conventional heads (Loss of estate, Loss of consortium, funeral expenses)	Rs.70,000/-
	Total Compensation awarded	12,12,400/- (rounded off to Rs.12,12,000/-)
	Enhanced amount of compensation	**Rs.12,12,000-Rs.9,85,000=Rs.2,27,000/-**

9. The enhanced amount of compensation of Rs.2,27,000/- 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% per annum from the date of filing of the claim petition, 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***. The remaining conditions of disbursal of amount shall remain unaltered.

10. Accordingly, the award stands modified to the above extent and the present appeal is partly allowed.

24.11.2017 **(RITU BAHRI)**

G Arora ***JUDGE***

Whether speaking/reasoned Yes
Whether reportable No