

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

F.A.O No. 1182 of 2015

Date of decision:- 14.05.2018

Pinki and others ...Appellants

Versus

Anil Kumar and others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Dharam Pal, Advocate for
Mr. Madan Lal, Advocate
for the appellants

RITU BAHRI J. (Oral)

C.M. No. 3234-CII-2015

For the reasons mentioned in the application, delay of 72 days
in re-filing of the appeal is hereby condoned.

The application stands disposed of.

F.A.O No. 1182-2015

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, Karnal (for short, 'the Tribunal') to the tune of Rs.13,53,400/- vide impugned award dated 23.04.2014 filed by the present appellants on account of death of Satish Kumar, who died in road accident on 18.02.2012 when a bus bearing registration No. HR-45-5892 being driven by respondent No. 1 struck against the motorcycle of the deceased and due to that he fell down on the road and received injuries. He succumbed to his injuries in the hospital. F.I.R No. 50 dated 18.02.2012 was registered against the driver of the bus.

3. A bare perusal of the impugned award shows that the compensation awarded to the appellants is liable to be reduced instead of

enhanced in view of recent 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.”.

4. Accordingly, no ground is made out to interfere in the impugned award dated 23.04.2014, as the future prospect will come to 40% and conventional heads will come to Rs.70,000/-.

5. In view of the above factual position, the appeal is dismissed.

14.05.2018

G Arora

***Whether speaking/reasoned
Whether reportable***

**(RITU BAHRI)
JUDGE**

***Yes
No***