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

**F.A.O No. 3769 of 2016
Date of decision:- 08.05.2018**

Usha Rani and ors. ...Appellants

Versus

Kewal Singh and others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Rohit Goswami, Advocate for
Mr. Nitin Mittal Advocate, for the appellants

Ms Vandana Malhotra, Advocate
for respondent No. 3-Insurance Company.

RITU BAHRI J. (Oral)

1. The present appeal has been preferred by the claimant-appellant, seeking enhancement of the amount of compensation awarded by the learned Motor Accident Claims Tribunal, Ambala (for short, 'the Tribunal') to the tune of Rs.08,15,000/- vide impugned award dated 14.01.2016.

2. The facts which are not in dispute are that on 10.06.2015, deceased Phool Chand was going from his residence towards Civil Hospital, Ambala on his bicycle. When he reached near Model Town Crossing, in the meantime, one wagon car bearing registration No. HR-10-D-0091 being driven by respondent No. 1 in a rash and negligent manner, hit into the bicycle of the deceased. Due to this impact, he fell down and received serious head injuries. He was shifted to Civil Hospital, Ambala Cantt where he succumbed to the injuries.

3. As per the Tribunal, the deceased-Phool Chand in the present case was 56 years old at the time of the accident. The Tribunal took the

income of the deceased at Rs.7500/- per month and 1/3rd was deducted towards personal expenses & thereafter, applied the multiplier of 09, in view of ***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77.*** The claimants were awarded Rs.25000/- for the last rites and Rs.50,000/- towards loss of consortium and Rs.2,00,000/- towards loss of love and affection. The total compensation awarded to the claimant was Rs.08,15,000/-.

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, as no future prospects have been granted.

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 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.".

8. In view of the ***Pranay Sethi's case (supra),*** no ground is made

out to interfere in the impugned award dated 14.01.2016, as even if 10% future prospect is awarded to the appellants, the compensation amount already awarded to the appellant will be reduced, as the amount given under conventional heads is on the higher side i.e Rs. 2,75,000/- which will be reduced to Rs.70,000/-.

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

08.05.2018 **(RITU BAHRI)**

G Arora ***JUDGE***

Whether speaking/reasoned ***Yes***

Whether reportable ***No***