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

**F.A.O No. 388 of 2016**
**Date of decision:- 04.04.2018**

Usha Devi and others ...Appellants

Versus

Prem Chand and others ...Respondents

***CORAM: HON'BLE MS. JUSTICE RITU BAHRI***

Present:- Mr. Atul Yadav, Advocate
for the applicants-appellants

Mr. Abhimanyu Batra, Advocate
for respondent No 2-Insurance Company.

**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, Gurgaon (for short, 'the Tribunal') to the tune of Rs.09,81,239/- vide impugned award dated 22.09.2015 on account of death of Bhagat Singh, who died in road accident on 11.02.2013 when a truck bearing registration No. HR-55-Q-6165 being driven by respondent No. 1 hit his cycle. F.I.R was registered against the driver of the offending truck.

2. As per the Tribunal, the deceased in the present case was 50 years old at the time of the accident. The Tribunal took the income of the deceased at Rs.5000/- per month and added 30% as future prospects. 2/3$^{rd}$ was deducted towards personal expenses and applied the multiplier of 13, in view of ***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77.*** The claimants were awarded

Rs.55,239/- towards medical bills, Rs.25000/- for the last rites, Rs.25,000/- towards loss of estate, Rs.1 lacs towards loss of love and affection and Rs.1 lacs towards loss of consortium. The total compensation awarded to the claimant was Rs.09,81,239/-.

3. 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.

4. On the other hand, the learned counsel for the respondent-Insurance Company has vehemently opposed the present appeal in view 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*** . Learned counsel for the respondent-Insurance Company submits that in view of this judgment, the compensation will be reduced.

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

6. 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.".*

7. In view of the ***Pranay Sethi's case (supra),*** no ground is made out to interfere in the impugned award dated 22.09.2015, as the amount awarded towards future prospect will reduce to 25% from 40% and

conventional heads will be reduced to Rs.70,000/- from Rs.2,50,000/-.

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

04.04.2018 **(RITU BAHRI)**

***G Arora*** ***JUDGE***

***Whether speaking/reasoned Yes***
***Whether reportable No***