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

**F.A.O No. 1017 of 2017
Date of decision:- 18.04.2018**

United India Assurance Co. Ltd. ...Appellant

Versus

Vazeer Singh and others ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Ram Avtar, Advocate
for the appellant

Mr. Devinder Singh, Advocate for respondent No. 1 to 5.

Mr. Satbir Rathore, Advocate
for respondent Nos. 6 and 7.

RITU BAHRI J. (Oral)

The present appeal has been preferred by the Insurance Company-appellant, seeking modification of the award passed by the learned Motor Accident Claims Tribunal, Gurdaspur (for short, 'the Tribunal') to the tune of Rs.56,25,000/-, vide impugned award dated 21.09.2016 in a claim petition on account of death of Sandeep Singh in a motor vehicular accident, which took place on 08.06.2015 with tanker bearing No. HP-38-B-3325.

The parties are not in dispute with respect to findings on issue No. 1 that Kamlesh Kumar was driving the offending rashly and negligently.

COMPENSATION AWARDED BY THE TRIBUNAL

Sr. No.	***Heads***	***Calculations***
(i)	Income	Rs.3,00,000/- per annum (25000 X 12)
(ii)	1/2 deducted as personal expenses of the deceased=	300000-150000=Rs.150000/-
(iii)	Future Prospects @100%	150000+150000=Rs.3,00,000/-
(iv)	Compensation after multiplier of 18 is applied	Rs.3,00,000 X 18= Rs.54,00,000/-
(v)	Loss of consortium	Rs.1,00,000/-
(vi)	Loss of love and affection	Rs.1,00,000/-
(v)	Funeral expenses	Rs.25,000/-
	Total	**Rs.56,25,000/-**

Learned counsel for the appellant-Insurance Company argued that the learned Tribunal has wrongly given 100% future prospects instead of 40% and Rs.2,25,000/- awarded under the conventional heads is also on the higher side, in view of 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.".

Heard learned counsel for the parties.

In view of ***Pranay Sethi's case (supra)***, the compensation requires to be modified and reads as under:-

<u>RE-ASSESSED COMPENSATION</u>

Sr. No.	***Heads***	***Calculations***
(i)	Income	Rs.3,00,000/- per annum (25000 X 12)
(ii)	1/2 deducted as personal expenses of the deceased=	300000-150000=Rs.150000/-
(iii)	Future Prospects @50% (since he was regular employee)	150000+75000=Rs.2,25,000/-
(iv)	Compensation after multiplier of 18 is applied	Rs.2,25,000 X 18= Rs.40,50,000/-
(v)	Conventional heads (Loss of estate and funeral expenses)	Rs.30,000/-
(vi)	Total Compensation to be awarded now	Rs.40,80,000/-

Accordingly, the award stands modified to the above extent and the present appeal is partly allowed. However, the appellant is directed to disburse the compensation amount of Rs.40,80,000/- to the claimants within a period of four weeks from the date of receipt of certified copy of this order and inform this court. The claimants shall also get interest @ 7.5% 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 ***Shri Nagar Mal and ors vs. The Oriental Insurance Co. Ltd and others, passed in Civil Appeal No. 448-2018., decided on 19.01.2018***. The remaining conditions of disbursal of amount and recovery rights shall remain unaltered.

18.04.2018 **(RITU BAHRI)**
G Arora ***JUDGE***

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