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

**F.A.O No. 15 of 2016**
**Date of decision:- 19.12.2019**

Manjit Kaur and ors. ...Appellants

Versus

Sunil Kumar and ors. ...Respondents

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

Present:- Mr. Vipul Sharma, Advocate
for the appellant

Mr. Suvir Dewan, Advocate
for the respondent/Insurance Co.

**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.9,98,600/- vide impugned award dated 17.08.2015 on account of death of Gurmail Singh.

2. As per claimants, on 04.02.2013, Gurmail Singh along with one Paramjit Singh was coming from the side of Zirakpur on his new tractor tralla mark Holland bearing Engine No. 08662 chasis No. 3172063, which was being driven by Gurmail Singh on his left side. When he reached near village Issekhan, Tehsil Rajpura, District Patiala, then a truck bearing No. PB-29-F-7890 came from opposite side, being driven by respondent No. 1 in a rash and negligent manner, struck against tractor tralla. As a result of

which Gurmail Singh received multiple injuries and Paramjit Singh fell down towards khatans. This accident was witnessed by one Baldev Singh who was going on his motorcycle. Gurmail Singh was taken to Civil Hospital, Mohali but he died on the way to the hospital. DDR No. 34 dated 04.02.2013 was registered in this regard.

3. While assessing compensation, the Tribunal took the income of the deceased at Rs.6000/- per month and 1/3rd was deducted towards personal expenses. 30% were awarded towards future prospects and the multiplier of 14 was applied. Rs.25,000/- were awarded on account of funeral expenses and Rs.1,00,000/- were awarded on account of loss of consortium. The total compensation awarded to the claimants was Rs.09,98,600/-.

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 firstly the multiplier of 14 has wrongly been applied, in view of Ex P-12 i.e driving licence of the deceased wherein the date of birth of the deceased has been mentioned as 29.04.1973. Learned counsel for the appellant has further submitted that the tractor tralla was in the name of the deceased (Ex R-6) and he himself was driving the tractor tralla at the time of accident. Thus, his income has been taken on the lower side.

5. On the other hand, learned counsel for the Insurance Company has opposed the prayer made by the learned counsel for the appellant,.

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

7. It is not in dispute between the parties that the accident had taken place, as the accident had been duly proved by the claimants/appellants. Further the income of the deceased can be taken of skilled labourer at Rs.8000/- per month and multiplier of 15 should have been applied instead of 14 as the deceased was 39 years 09 months approximately at the time of accidents. The cut of $1/4^{th}$ should have been applied as the dependents are four in number and 40% future prospects should have been granted.

8. Further the mother and children are also entitled for compensation of Rs.40,000/- each under the head of loss of consortium, in view of judgment of Hon'ble the Supreme Court of India in a case of ***Magma General Insurance Co. Ltd vs Nanu Ram Alias Chuhru Ram, 2018 (4) RCR Civil 837*** .

9. 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.".*

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

the judgments mentioned above :-

| ***Sr. No.*** | ***Heads*** | ***Calculations*** |
|---|---|---|
| (i) | Income | Rs.8000/- per month |
| (ii) | 40% of (i) above to be added as future prospects= | Rs.8000+Rs.3200=Rs.11200/- per month |
| (iii) | 1/4$^{th}$ of (ii) deducted as personal expenses of the deceased= | Rs.11200-Rs.2800=Rs.8400/- per month |
| (iv) | Compensation after multiplier of 15 is applied | Rs.8400 X 12 X 15= Rs.15,12,000/- |
| (v) | Conventional heads (Loss of estate, consortium and funeral expenses) | Rs.70,000/- |
| (vi) | Loss of fillail consortium (mother) | Rs.40,000/- |
| (vii) | Loss of consortium (children) | Rs.80,000/- (Rs.40,000/- each) |
| (viii) | Total Compensation awarded | Rs.17,02,000/- |
| | **Enhanced amount of compensation** | **17,02,000-09,98,600=Rs.07,03,400/- (rounded off to Rs.7,03,000/-)** |

11. The enhanced amount of compensation of Rs.07,03,000/- 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 in view of judgment of Hon'ble the Apex Court in Civil Appeal No. 4528-2019 titled as ***Dara Singh @ Dhara Banjara vs. Shyam Singh Varma and ors, decided on 01.05.2019***. The remaining conditions of disbursal of amount and recovery rights shall remain unaltered.

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

19.12.2019 **(RITU BAHRI)**

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

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