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

**F.A.O No. 602 of 2013
Date of decision:- 24.10.2019**

Rekha Saini and anr. ...Appellants

Versus

Pritam Singh & ors. ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. R.S. Mamli, Advocate
for the appellants

Mr. N.P. Bhardwaj, Advocate
for respondent No. 2

Mr. R.K. Bashamboo, Advocate
for respondent No. 3

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, Yamuna Nagar Jagadhari (for short, 'the Tribunal') to the tune of Rs.14,56,184/- vide impugned award dated 30.11.2012 on account of death of Anil Kumar.

2. As per claimants, on 22.04.2011, Anil Kumar (since deceased) was riding over his motorcycle bearing temporary registration No. HR-99-FD-3147. He was going towards Yamuna Nagar and when he reached near Puran Nath Timbers near Aggarsain Chowk, Jagadhri, then a truck bearing registration No. HR-64-3104 being driven by respondent No. 1 in a rash and negligent manner came from behind and struck against the motorcycle of the deceased. Due to the impact, he fell down on the road and sustained multiple injuries. He died on the spot. F.I.R No. 217 dated 22.04.2011 was

registered at P.S. City, Jagadhari against respondent No. 1.

3. While assessing compensation, the Tribunal took the income of the deceased at Rs.1,35,100/- per annum and 1/3rd was deducted towards personal expenses and applied the multiplier of 16. Rs.5,000/- were awarded on account of loss of consortium, Rs.5,000/- were awarded towards funeral expenses and Rs.5000/- were awarded towards loss of estate. The total compensation awarded to the claimants was Rs.14,56,184/-.

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 awarded.

5. On the other hand, the learned counsel for the respondent-driver has vehemently opposed the present appeal. Learned counsel for the Insurance Company contends that there was no conclusive evidence on record to ascertain the actual occupation of the deceased. Learned counsel submits that the deceased was dealing in sales and purchase of gift items and thus his income has to be split because after the death, the gift items are still lying in the hands of the claimants.

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

7. The argument raised by learned counsel for the Insurance Company is rejected, as in the income tax return of the deceased, his annual income has been shown as Rs.1,35,110/- and this income has rightly been taken by the Tribunal for assessing the compensation. In the year 2008-09 his income has been shown as Rs.98,510/- and in the year 2009-10 his income has been shown as Rs.1,35,110/- which is not on the excessive side.

8. 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.

9. Further the child and mother 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*** .

10. 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.".

11. In the present case, the compensation is being reassessed as per the judgments mentioned above :-

Sr. No.	***Heads***	***Calculations***
(i)	Income	Rs.1,35,110/- per annum
(ii)	40% of (i) above to be added as future prospects=	Rs.1,35,110+Rs.54044=Rs.1,89,154/- per annum
(iii)	1/3rd of (ii) deducted as personal expenses of the deceased=	Rs.1,89,154-Rs.63051=Rs.1,26,103/- per annum
(iv)	Compensation after multiplier of 16 is applied	Rs.1,26,103 X 16= Rs.20,17,648/-
(v)	Conventional heads (Loss of estate, consortium and funeral expenses)	Rs.70,000/-
(vi)	Loss of consortium (child)	Rs..40,000/-

Sr. No.	***Heads***	***Calculations***
(vii)	Loss of filail consortium (mother)	Rs.40,000/-
(viii)	Total Compensation awarded	Rs.21,67,648/-
	Enhanced amount of compensation	**21,67,648-14,56,184=Rs.07,11,464/-** **(rounded off to Rs.7,11,000/-)**

12. The enhanced amount of compensation of Rs.07,11,000/- 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.

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

24.10.2019 **(RITU BAHRI)**
G Arora ***JUDGE***

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