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

**F.A.O No. 7918 of 2015 (O&M)
Date of decision:- 04.07.2019**

Attya ...Appellant

Versus

Hakam and ors. ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Ashish Gupta, Advocate,
for the appellant

Mr. Rajiv Sharma, Advocate
for respondent Nos. 1 and 2.

Mr. Deepak Suri, Advocate
for respondent No. 3

RITU BAHRI J. (Oral)

C.M. No.24924-CII-2015

Reply filed by respondent No. 3 in the Court today, is taken on record.

For the reasons mentioned in the application, delay of 480 days in filing of the appeal is condoned.

The application stands disposed of accordingly.

F.A.O No. 7918-2015

1. The present appeal has been preferred by the claimant-appellant (mother of the deceased), seeking enhancement of the amount of compensation awarded by the learned Motor Accident Claims Tribunal, Mewat (for short, 'the Tribunal') to the tune of Rs.08,90,000/- vide impugned award dated 29.03.2014 on account of death of Mubeen in a road accident on 11.01.2013. Appellant is further praying setting aside the

findings of the learned Tribunal with respect to apportionment of compensation amount, as the appellant has not been awarded any amount from the compensation amount.

2. As per the case of the claimants, on 11.01.2013 the deceased-Mubeen was coming from village Tirwara on motorcycle No HR-28B-6955 to his village Singar. When he reached near village Jhirakhera (Singar) in the meantime, respondent No. 1 came from side i.e Singar side in a very rash and high speed and negligent manner on motorcycle HR-51-AR-6429 and hit the motorcycle of the deceased after coming from wrong side and due to which the deceased fell down on the road and received serious and multiple injuries and took him at CHC Puhana where the doctor referred him to Safdarjung Hospital New Delhi due to seriousness where he died on the same day.

3. While assessing the compensation, the Tribunal took the income of the deceased at Rs.5000/- per month and $1/4^{th}$ was deducted towards personal expenses and thereafter, applied the multiplier of 17, in view of ***Sarla Verma and others vs. Delhi Transport Corporation and another, 2009 (3) RCR (Civil) Page 77.*** Further the Tribunal awarded Rs.25,000/- towards funeral expenses and Rs.1,00,000/- on account of loss of consortium. The total compensation awarded to the claimants was Rs.08,90,000/-.

4. The learned counsel for the claimant-appellant contends that the compensation awarded by the learned Tribunal is on the lower side and deserves to the enhanced, as the Tribunal has not awarded future prospects and the income per month taken by the tribunal is on the lower side.

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. It is not in dispute between the parties that the accident had taken place, as the accident had been duly proved by the claimants.

8. 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.".

9. The monthly salary of the deceased should have been taken to that of skilled labourer as he was working as teacher. Further there were 06 dependents upon the deceased and reference at this stage can be made to a judgment passed by Hon'ble the Supreme Court in a case of ***New India Assurance Co. Ltd v. Gopali and others, 2012 (12) SCC 198*** whereby Hon'ble the Supreme Court in an old case of 1992 had taken the monthly income of deceased at Rs.3000/- and cut of 1/10th was imposed, keeping in view the fact that a person having a minimum income of Rs.3000/- could not think of spending 1/3rd of his income on himself.

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

the judgments mentioned above:-

Sr. No.	***Heads***	***Calculations***
(i)	Income	Rs.6000/- per month
(ii)	40% of (i) above to be added as future prospects=	Rs.6000+Rs.2400=Rs.8400/- per month
(iii)	1/10th of (ii) deducted as personal expenses of the deceased=	Rs.8400-Rs.840=Rs.7560/- per month
(iv)	Compensation after multiplier of 17 is applied	Rs.7560X 12 X 17= Rs.15,42,240/-
(v)	Funeral expenses	Rs.15000/-
(vi)	Loss of consortium	Rs.40000/-
(vii)	Loss of love and affection	Rs.15000/-
(viii)	Total Compensation awarded	Rs.16,12,240/-
	Enhanced amount of compensation	**1612240-890000=Rs.7,22,240/-** **(rounded of to Rs.7,23,000/-)**

11. The enhanced amount of compensation of Rs.7,23,000/- shall be payable within a period of forty five days from the date of receipt of certified copy of this order. Since there was a delay of 480 days in filing of the appeal, the appellants will not get the interest of the above period. However, the appellants shall get interest @ 9% per annum from the date of filing of the claim petition, in view of the 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. Further the appellant who is the mother of the deceased will be given 15% out of the total compensation amount and rest of the amount be given to the claimants in shares as granted by the Tribunal.

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

04.07.2019 **(RITU BAHRI)**
G Arora ***JUDGE***

Whether speaking/reasoned Yes
Whether reportable No