205

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.4409 of 2013
Date of Decision : 10.11.2017

RAJ BALA AND ANOTHER

....APPELLANTS

VERSUS

RAJAN KUMAR AND OTHERS

....RESPONDENTS

CORAM : HON'BLE MR. JUSTICE B.S. WALIA

Present: Mr. Deepak Sharma, Advocate
for the appellants.

Mr. Pradeep Sharma, Advocate for
Mr. Gaurav Goel, Advocate
for respondent No.3-Insurance Company.

B.S. WALIA, JUDGE (ORAL)

[1] Claimants-appellants prayer is for enhancement of compensation by modification of award dated 02.05.2013, whereby Rs.3,89,600/- was awarded on account of death of Khushi Ram @ Johny, 24 years old Mason.

[2] The learned Motor Accidents Claims Tribunal, Ambala (hereinafter referred to as the Tribunal) as against the claimed monthly income of Rs.9,000/- assessed the income of the deceased at Rs.5600/- per month as per DC rates, deducted 50% for personal expenses of deceased, assessed dependency at Rs.2800/- per month, held multiplier of '13' to be applicable but applied multiplier of '11' and by taking into account the age of the deceased's mother, awarded a sum of Rs.3,69,600/- plus a sum of Rs.20,000/- on account of funeral expenses. In this way, the Tribunal awarded total compensation of Rs.3,89,600/-. However, no amount was

awarded on account of future prospects and loss of estate.

[3] Learned counsel for the claimants-appellants contends that in view of the authoritative pronouncement of the Constitution Bench of the Hon'ble Supreme Court in *'**National Insurance Company Limited** versus **Pranay Sethi and others'***, *SLP (Civil) 25590 of 2014*, *decided on 31.10.2017*, it is the age of the deceased which is to be taken into account while applying the multiplier. Relevant extract of the decision is reproduced hereunder:-

> *"61(vii) The age of the deceased should be the basis for applying the multiplier."*

[4] Learned counsel contends that in the circumstances, in terms of the decision of the Hon'ble Supreme Court in *'**Sarla Verma** versus **Delhi Transport Corporation'***, *2009 ACJ 1298,* the correct multiplier i.e. '18' is to be applied on account of deceased being '24' years old at the time of death. Relevant extract of the decision of the Hon'ble Supreme Court in '***Sarla Verma's*** case (supra) is reproduced hereunder:-

> *"21. We therefore hold that the multiplier to be used should be mentioned in column (4) of the Table above (prepared by applying Susamma Thomas, Trilok Chandra and Charlie), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M-17 for 26 to 30 years, M-16 for 31 to 35 years, M-15 for 36 to 40 years, M-14 for 41 to 45 years, and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years."*

[5] Learned counsel for the claimants-appellants further contended that in addition to applying multiplier of '18', the claimants-appellants would be entitled to a sum of Rs.15000/- on account of loss of estate apart from future prospects. Learned counsel for the appellants contended that in the aforementioned circumstances, the appellants would be entitled to

enhancement in the compensation.

[6] I have considered the submissions of learned counsel for the parties.

[7] Income of deceased was assessed at Rs.5600/- per month. After deducting 50% on account of personal expenses of the deceased, dependency was worked out at Rs.2800/- per month. By making an addition of 40% of the established income of the deceased on account of deceased being less than 40 years of age, future prospects have to be granted in terms of paragraph No.61(iv) of the decision in "***Pranay Sethi's*** case (supra), whereafter multiplier of '18' is to be applied instead of '11'. Relevant extract of the aforementioned decision is reproduced as under:-

> *"61 (iv) In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component."*

[8] Appellants-claimants would also be entitled to Rs.15,000/- on account of loss of estate and Rs.15,000/- towards funeral expenses (in terms of paragraph No.54 of '***Pranay Sethi's*** case *(supra)* as against a lump-sum of Rs.20,000/- awarded by the Tribunal towards funeral expenses and loss of estate. Relevant extract of the decision of the Hon'ble Supreme Court in '***Pranay Sethi's*** case (supra) is reproduced hereunder:-

> *"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] Accordingly, compensation payable on enhancement works out as under :-

Sr. No.	Head	Amount assessed by Tribunal in Rs.	Amount assessed by this Court.
1	Income	5600/-	5600/-
2	Future prospects @ 40%	NIL	2240/-
3	Total income assessed	5600/-	7840/-
4	Dependency arrived at	2800/- p.m.	3920/- p.m.
5	Deduction of 50% towards personal expenses of deceased.	5600 – 2800=2800/-	7840-3920=3920/-
6	Multiplier applied	11	18
7	Compensation awarded	2800 x 11 x 12 = 3,69,600/-	3920 x 18 x 12 = 8,46,720/-
8	Funeral expenses	20,000/-	15,000/-
9	Loss of Estate	NIL	15,000/-
	Total	3,89,600/-	8,76,720/-

[10] Resultantly, as against the award of Rs.3,89,600/- by the Tribunal along with interest @ 7.5%, the appellants would now be entitled to a sum of Rs.8,76,720/- along with interest @ 7.5% w.e.f. the date of the claim petition till date of payment less payment if any already made.

[11] Accordingly, appeal is allowed by modifying the award dated 08.05.2013 passed by the learned MACT, Ambala to the extent noted above.

(B.S. WALIA)
JUDGE

November 10, 2017
rajneesh

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No