IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3345 of 2014 (O&M)
Date of Decision : 09.11.2017

Sunita Devi and others

....APPELLANTS

VERSUS

Jagdish and others

....RESPONDENTS

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

Present: Ms. Bhawna Grewal, Advocate for
Mr. S.K.Yadav, Advocate
for the appellants.

Mr. Rajbir Singh, Advocate
for respondent No.3.

B.S. WALIA, JUDGE (ORAL)

[1] Challenge is to award dated 08.01.2015, passed by the learned Motor Accident Claims Tribunal, Narnaul, (hereinafter, referred to as the Tribunal) awarding compensation of Rs.9,11,065/- along with interest @ 9% per annum from the date of presentation of the petition till date of payment to the appellants on account of death of Raj Singh alias Lala Ram, who died in a motor vehicular accident on 23.10.2013.

[2] Income of the deceased was taken by the Tribunal at Rs.5600/- pm under the Minimum Wages Act as against the claimed income i.e. Rs.15,000/- per month as driver plus Rs.2000/- as earning's from agriculture, total Rs.17,000/-. $1/5^{th}$ of the income of the deceased was deducted towards his personal expenses, while working out compensation by applying multiplier of 14 on account of deceased being 38 years old. A sum of Rs.1,00,000/- was awarded on account of loss of consortium, Rs.30,000/-

towards loss of love and affection, Rs.20,000/- on account of transportation charges and last rites and Rs.8425/- towards medical expenses, total Rs.9,11,065/-.

[3] Learned counsel for the appellants contended that the compensation awarded is liable to be enhanced by taking into account multiplier of 15 as against 14 applied by the Tribunal on account of deceased being 38 years old. Learned counsel relied on the decision of the Hon'ble Supreme Court in case titled as '**Sarla Verma and others** versus **Delhi Transport Corporation and another**', *2009 AIR (SC) 3104*', to contend that multiplier of 15 is applicable in case deceased was 38 years of age.

Relevant extract of the decision in **Sarla Verma's** case (supra) is reproduced as under :

> *"21. We therefore hold that the multiplier to be used should be as 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"*

I have considered the aforementioned plea in the light of decision of the Hon'ble Supreme Court in Sarla Vermas case (Supra). In view of the clear position as emerging from the reading of the decision of the Hon'ble Supreme Court in Sarla Vermas case (Supra) as also in view of the deceased being 38 years old, multiplier to be applied will be 15 and not 14. Accordingly, multiplier applicable will be 15 in working out compensation payable.

4. Learned counsel contended that the appellants were entitled to award of compensation towards future prospects as also los of estate in

view of the decision of the Hon'ble Supreme Court in the case of '**National Insurance Company Limited** versus **Pranay Sethi and others',** (Special Leave Petition (Civil) No.25590 of 2014), decided on 31.10.2017. Relevant extract of the decision in **Pranay Sethi's** case Supra 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.*
> *(viii) 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 aforesaid amounts should be enhanced at the rate of 10% in every three years."*

[5] Per contra, learned counsel for the insurance company contended that Rs.1,00,000/- awarded on account of loss of consortium was liable to be scaled down to Rs.40,000/-, while compensation of Rs.20,000/- awarded on account of last rites and transportation charges was liable to be reduced to Rs.15,000/- while no compensation was liable to be paid on account of loss of love and affection besides transportation charges.

[6] I have considered the submissions of counsel for the parties and am of the view that the assessment of income at Rs. 5600/- under the Minimum Wages Act was correctly made. However, no amount has been awarded on account of future prospects, whereas as per paragraph No. 61(iv) of the decision of the Hon'ble Supreme Court in **Pranay Sethi's case (Supra) since** the deceased was less than 40 years and was self employed, 40% of the established income minus tax is to be added towards future prospects. Accordingly, appellants-claimants are held entitled to addition of 40% of the established income i.e. 40% of Rs.5600/- per month

minus tax towards the future prospectus.

[7] Likewise, in view of paragraph No. 61 (viii) of the aforementioned decision in **Pranay Sethi's** case (supra), compensation on account of loss of estate, loss of consortium and funeral expenses is to be awarded @ Rs.15,000/-, Rs.40,000/- and Rs.15,000/- respectively. However, no amount is payable towards loss of love and affection and transportation charges

[8] Since the claimants in the claim petition were 'seven' before the learned Tribunal, therefore, the Tribunal while taking into account personal expenses of the deceased at 1/5th of his income worked out dependancy at Rs.7,52,640/- and total compensation of Rs. 9,11,065/- payable as per details given above.

[9] However, in the light of the position as noted above, compensation now payable on modification is as under:-

Sr.No.	Head	Amount assessed/awarded by Tribunal	Amount assessed/awarded as payable by this Court
1	Income	Rs. 5600/-	Rs. 5600/-
2	Future Prospects	Nil	40% of income i.e. Rs. 2240/-
3	Multiplier applied on age of 38	14	15
4	Dependancy	Rs. 5600/- less 1/5th as personal expenses = Rs. 4480/- x 12= Rs. 53760/- x 14= Rs.7,52,640/-	Rs. 7840/- less 1/5 as personal expenses i.e. Rs. 1568/- = Rs. 6272/- x 12= Rs. 75264/- x 15= Rs. 11,28,960/-
5	Loss of Estate	Nil	Rs. 15,000/-
6	Loss of consortium	Rs. 1,00,000/-	Rs. 40,000/-
7	Loss of Love and affection	Rs. 30,000/-	Nil
8	Funeral & transportation charges	Rs. 20,000/-	Rs. 15,000/- towards funeral expenses.
9	Medical expenses	Rs. 8425/-	Rs. 8425/-
10	Total	Rs. 9,11,065/-	Rs. 12,07,385/-

[10] No other point has been argued. Accordingly, the total amount payable

works out to Rs.12,07,385/-

[11] Accordingly, appeal is allowed in the aforementioned terms. Award dated 08.01.2015 passed by the learned Tribunal is modified and the appellants are held entitled to compensation of Rs.12,07,385/- along with interest @ 9% per annum w.e.f. the date of application till date of payment, less amount, if any, already paid. Appeal allowed as above.

(B.S. WALIA)
JUDGE

November 9, 2017
rajesh.k.khurana

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