IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.1319 of 1994
Date of Decision : 13.07.2018.

Gurcharan Kaur and others

... Petitioners

versus

State of Punjab and others

.... Respondents

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

Present: Mr. Tarundeep Singh, Advocate for
Mr. D.S. Pheruman, Advocate
for the appellants.

None for the respondents.

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B.S.WALIA, J.

1. None has appeared on behalf of the respondents. Since the appeal pertains to the year 1994, therefore, I am not inclined to adjourn the hearing of the case. Accordingly, the same is taken up for final hearing.

2. Learned counsel contends that the deceased was 53 years old and was working as Chief Inspector with the Punjab Roadways against monthly salary of ₹3029/- and died leaving behind five dependents. However, the learned Motor Accidents Claims Tribunal, Amritsar, (hereinafter referred to as the Tribunal) made deduction from the income of the deceased towards his personal expenses @ 1/3rd of his income and by applying multiplier of ‘5’ awarded ₹2,40,000/- as compensation to the appellants.

3. Grievance is that deduction was required to be made @ 1/4th and not @ 1/3rd of the income of the deceased towards his personal expenses besides multiplier of 11 not 5 was to be applied. Prayer is also for

enhancing the amount payable on account of conventional heads as also for awarding future prospects.

4. I have considered the submission of learned counsel for the appellants. Admittedly the deceased was 53 years old and was working as Chief Inspector with Punjab Roadways against monthly salary of ₹3029/-. The deceased left behind five dependants. According to paragraph No. 30 of the decision of Hon'ble the Supreme Court in Sarla Verma vs. Delhi Transport Corporation and another 2009(6) SCC 121, where the number of dependent family members is 4 to 6, then deduction towards personal expenses of the deceased is to be made at the rate of 1/4th of the income of the deceased and not 1/3rd. Relevant extract of Sarla Verma's case (supra) is reproduced as under:-

> "30. Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in Trilok Chandra4, the general practice is to apply standardised deductions. Having considered several subsequent decisions of this Court (2003) 3 SLR (R) 601 Court, we are of the view that where the deceased was married, the deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members is 2 to 3, one-fourth (1/4th) where the number of dependent family members is 4 to 6, and one-fifth (1/5th) where the number of dependent family members exceeds six.

Since the deceased left behind 5 dependants, deduction is to be made @ 1/4th of the income of the deceased.

5. As regards multiplier, the learned Tribunal applied multiplier of '5', whereas in terms of paragraph No. 42 of Sarla Verma's case (supra), where the age of deceased is 51 to 55 years, multiplier of 11 is to be applied. Relevant extract of Sarla Verma's case (supra) is reproduced as under:-

> "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."

It needs mention here that the aspect of deduction as well as multiplier to be applied has been considered by Hon'ble the Supreme Court in National Insurance Company Ltd. versus Pranay Sethi and others, 2017(4) RCR (Civil) 2009 and the decision in Sarla Verma's case (supra) in respect thereto approved.

6. As is evident from the award passed by the learned Tribunal, no amount was awarded on account of future prospects. However, as per paragraph No. 61(iii) of Pranay Sethi's case (supra), an addition of 15% of

the actual salary is to be made to the income of the deceased less tax component while computing future prospects where the deceased had a permanent job and was between the age of 50 to 60 years. Relevant extract of decision of Pranay Sethi's case (supra) is reproduced as under:-

> (iii) While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.

7. Since, the deceased was employed on permanent job and was 53 years of age, therefore, 15% of actual salary of the deceased is to be added to his income while computing future prospects.

8. Lastly no amount has been awarded on account of conventional heads. As per paragraph No.61 (viii) of Pranay Sethi's case (supra), a sum of ₹15,000/-, ₹40,000/- and ₹15,000/- respectively is to be awarded on account of loss of estate, loss of consortium and funeral expenses. Paragraph 61(viii) of Pranay Sethi's case (supra) is reproduced as under;-

> (viii) Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be ₹15,000/-, ₹40,000/- and ₹15,000/- respectively. The aforesaid

amounts should be enhanced at the rate of 10% in every three years.

9. In the circumstances, the appellants are held entitled to ₹15,000/- on account of loss of estate, ₹40,000/- on account of loss of consortium and ₹15,000/- towards funeral expenses. Needless to mention, amount of ₹40,000/- awarded on account of loss of consortium shall be payable exclusively to the widow of the deceased.

10. Accordingly, in the light of the position as noted above, compensation payable works out as under :-

Sr. No.	Heads	Amount assessed by the Tribunal.	Amount assessed by this Court.
1.	Income	₹3029/-	₹3029/-
2.	Future Prospectus	Nil	15% =₹454.35 rounded of to ₹ 454/-
3.	Multiplier	'5'	'11'
4.	Deduction towards personal expenses.	1/3rd of ₹3029=₹1029	1/4th of ₹3483-₹870/- =₹2612
5.	Dependancy	₹2000x12x5= ₹1,20,000/- + ₹1,20,000/- = ₹2,40,000/-	₹2612/- x 12 x 11=₹3,44,784/-
6.	Loss of consortium	Nil	₹40,000/-
7.	Loss of Estate	Nil	₹15,000/-
8.	Funeral expenses	Nil	₹15000/-
	Total	₹ 2,40,000/-	₹4,14,784/-

11. Accordingly, in view of the position as noted above, as against the compensation of ₹2,40,000/- awarded to the appellants, the appellants are held entitled to award of compensation of ₹4,14,784/-along with interest @

7.5% per annum w.e.f. the date of claim petition till the date of payment, less amount, if any already paid. Needless to mention, the appellants would be entitled to the award of compensation in proportion to their shares as determined by the Tribunal after first making payment of ₹40,000/- towards loss of consortium to the widow of the deceased. Insurance company shall make the payment to the appellant in accordance with the decision of Pranay Sethi's case (supra), after making deduction of the tax liability qua future prospects.

12. Accordingly, appeal is allowed and award is modified to the extent as noted above.

(B.S.WALIA)
JUDGE

13.07.2018.
rajesh.k.khurana

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