IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO No.3039 of 2003

Date of Decision: 19.09.2018

Kanta Singhal & Ors.

..... Appellants

Versus

Gurpreet Singh & Anr.

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Parveen Kataria, Advocate for the Appellants.

Mr. L.S.Sidhu, Advocate for Respondent No.1.

Ms. Priya Deep, Advocate for
Mr. Ashwani Talwar, Advocate for Respondent No.2.

SUDIP AHLUWALIA, J.

The Appellants are the widow, son, daughter and widowed mother of deceased Darshan Singhal, who was killed following a road accident caused by the Offending Jeep No. HYT-7525, which was being driven at the relevant time on 30.5.2001 by the Respondent No.1, who also happens to be owner of the said vehicle, and which was under coverage of valid Insurance Policy issued by the Respondent No.2 Oriental Insurance Company Limited.

2. The Ld. Tribunal after taking into consideration the profession, income, age and occupation of the deceased, had awarded a total amount of Rs.7,25,000/- as compensation to the Appellants, which included Rs.7,20,000/- as their dependency loss, and an amount of Rs.2500/- towards

Funeral Expenses, besides an identical amount of Rs.2500/- as Loss of Consortium to the widow of the deceased. The Appellants are aggrieved that the compensation thus awarded is highly inadequate and insufficient, and have therefore, preferred this Appeal seeking its enhancement in their favour.

3. The facts that the deceased was killed on account of road accident caused by the Offending Jeep, that he was gainfully employed as a permanent employee in the Bank of India, Jagraon Branch, from which he lastly drew a total salary of Rs.20,030-06 P, are not at all in dispute. In fact, the regular Salary Certificate depicting the victim's last salary for the month of May, 2001, as also his date of birth being 30.3.1953, have been explicitly shown in the original certificate dated 8.4.2002 issued by the Branch Manager of Bank of India, Jagraon, which was led into evidence as Ex.P-1 before the Ld. Tribunal.

4. The Appellants however, contend that the Ld. Tribunal wrongly made deduction from the victim's last salary, and artificially reduced his actual salary amounting to Rs.12,394-06 P per month by excluding the HRA (Rs.1050/-), PFA (Rs.412/-) and Dearness Allowance (DA-Rs.3568-06 P), components from the same, and even reduced further the income by rounding it off to Rs.12,000/- per month only. The Appellants are also aggrieved that the Multiplier of '10' as applied by the Ld. Tribunal is itself improper and not in accordance with law, and even a further compensation under the other Statutory Heads like, Funeral Expenses, Loss of Consortium, Loss of Estate etc. have been wrongly curtailed and even

declined.

5. This Court has gone through the entire available material in the LCR. It is settled law that for the purpose of assessing compensation, the actual emoluments earned by a salaried person are to be taken into consideration after allowing deduction only for those items, which he is liable to pay either Statutorily or under any special circumstances, such as loan repayment etc. In the present case however, no such liability of the deceased employee towards paying off any loan, or outstanding dues has emerged from the entire material on record. Consequently, this Court holds that the Ld. Tribunal was in error in deducting the income under the Heads HRA, PFA and Dearness Allowance, which all were certainly a part of his actual salary income at the rate of Rs.20,030/- per month. Therefore, the actual annual salary income of the deceased comes to Rs.2,40,360/- , but he was also liable to pay income tax on such salary income at the relevant time. On this Head thus the admissible deduction under Section 80C of the Income Tax Act was at the rate of 10% of Basic Salary, which comes to Rs.1500/- per month i.e. Rs.18,000/- per annum on account of Provident Fund deduction, and admissible Standard Deduction of Rs.50,000/- as in force at the relevant time are to be separated. Consequently, the net taxable salary income of the deceased gets reduced to Rs.1,72,360/-, from which the actual payable tax at the prescribed rates of 10%, 20% and 30% for the relevant Slabs between Rs. 50,001 to Rs. 60,000/-, Rs. 60,001 to Rs.1, 50,000/- and 1,50,001/- to the actual income of Rs.1,72,360/- respectively comes to Rs.25,708/-, which, after being deducted from his

gross salary income leaves the net annual salary income for assessing the admissible compensation at Rs.2,14,652/- only. However, considering that the deceased had all the four Appellants as his dependents at the relevant time, 1/4th of his aforesaid income is liable to be deducted in view of the decision of Apex Court in **'Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Anr.' 2009(3) R.C.R. (Civil) 77**. The net dependency claim after making this deduction comes to Rs.1,60,989/-, to which an addition at the rate of 30% towards future prospects for hike in salary etc. is to be added, considering the victim's age at the relevant time in view of Supreme Court's decision in **'National Insurance Company Limited Vs. Pranay Sethi and Ors.' 2017 (4) R.C.R. (Civil) 1009.** 30% of such added amount happens to be Rs.48,297/- on account of which, the total admissible compensation towards dependency loss comes to Rs.2,09,286/- per annum.

6. Again in view of the decision of **Smt. Sarla Verma (Supra)**, the Multiplier of '13' is applicable as he was aged between 46 to 50 years at the relevant time, on account of which, the total admissible claim of the Appellants with regard to dependency loss comes to Rs.27,20,718/- only, to which additional amounts of Rs.15,000/-, Rs.15,000/- and Rs.40,000/- towards Funeral Expenses, Loss of Estate and Loss of Consortium are also to be added. The total compensation thus payable to the Appellants is Rs.27,90,718/- only.

7. With the above observations, the present Appeal is disposed off.

8. The compensation amount thus determined by this Court shall be paid

by the Respondents after making adjustments for any amount(s) already paid, and the interest liability of the Respondents shall be subject to the same terms & conditions as determined by the Ld. Tribunal.

(SUDIP AHLUWALIA)
JUDGE

19.09.2018
AS

1. **Whether speaking/reasoned ? Yes/No**
2. **Whether reportable ? Yes/No**