IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Cross Objection NO.107-CII of 2015 and
FAO No.1861 of 1995 (O&M)
Date of Order: 23.04.2018

General Manager, Haryana Roadways, Kurukshetra and another

..Appellants

Versus

Naresho Devi and others

..Respondents

Cross Objection No.93-CII of 2014 and
FAO No.1862 of 1995 (O&M)

State of Haryana

..Appellant

Versus

Roshni Devi and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Saurabh Girdhar, AAG, Haryana

Mr. Jagdish Manchanda, Advocate,
for cross-objectors/respondents no.1 to 3
(in FAO No.1861 of 1995)

Mr. Saurabh Bhardwaj, Advocate, for
Mr. P.S. Rana, Advocate,
for claimants/respondents no.1 to 3
(in FAO No.1862 of 1995)

Mr. R.K.Bashamboo, Advocate,
for respondent no.7-(in FAO No.1861 of 1995)
for respondent no.9-(in FAO NO.1862 of 1995)

ANIL KSHETARPAL, J.

By this judgment, two first appeals and two cross objections shall stand decided.

Let us first decide two appeals filed by the General Manager, Haryana Roadways, Kurukshetra.

It is not in dispute that pursuant to a motor vehicular accident, 10 claim petitions were decided by a consolidated judgment.

On appreciation of the evidence, it was found that driver of the bus was rash and negligent and had caused accident. In 8 cases, no appeal has been preferred. The finding of rash and negligent driving has become final against the State of Haryana. In the absence of appeal in other 8 cases, this court is not in a position to take a contrary view.

In view of the aforesaid, there is no substance in the appeals filed by the General Manager, Haryana Roadways, Kurukshetra. Hence, both the appeals are dismissed.

Cross Objection No.93-CII of 2014

The cross objection No.93-CII-2014 has been filed by the claimants seeking enhancement on account of death of Mewa Singh, who was aged 37 years at the time of death. He has left behind wife and two minor sons. The learned Motor Accident Claims Tribunal (hereinafter referred to as "the Tribunal") assessed the income of the deceased at Rs.1,000/- per month and thereafter, imposed a cut of 1/4th and, thus, worked out dependency at Rs.750/- and multiplier of 25 was applied.

Learned counsel for the cross-objector has submitted that the income of the deceased was on the lower side as in connected case in case of unskilled labour, the income has been assessed at Rs.1200/- per month i.e. in cross objection No.107-CII-2015. He further submitted that as per the judgment passed by the Hon'ble Supreme Court in ***Smt. Sarla Verma and others v. Delhi Transport Corporation and another (2009) 6 SCC 121***, cut of $1/3^{rd}$ could be applied. He further submits that as per judgment passed by the SC in Sarla Verma's case (supra), multiplier of 15 would be applicable. However, he submits that the learned Tribunal has not granted anything on account of future prospects. He submitted that on account of future prospects in case of self employed person below the age of 40, the income is to be increased by 40%. He further submitted that as per judgment passed by the Constitution Bench in ***National Insurance Company Limited v. Pranay Sethi and others, JT 2017(10) SC 450***, under the conventional heads, total amount of Rs.70,000/- is to be awarded on account of loss of estate, loss of consortium and funeral expenses.

On the other hand learned counsel for the respondents has submitted that the accident took place on 08.07.1983 and, therefore, the compensation assessed is in accordance with law. Learned counsel for the State has further pointed out that the learned Tribunal has erred in awarding interest @ 15% per annum.

In the considered opinion of this court, the income assessed by the learned Tribunal is on the lower side. In the connected case, taking the deceased to be unskilled labour, the income has been assessed at Rs.1200/- per month. Thus, taking the income of Rs.1200/- and applying a cut of $1/3^{rd}$, the dependency is worked out at Rs.1200-$1/3^{rd}$=Rs.800/-

As per the judgment passed in ***Pranay Sethi's case (supra)***, income is to be increased by 40% on account of future prospects. The increase would come to Rs.480/- thus the dependency comes to Rs.800+480=1280/-.

As per judgment passed by the Hon'ble Supreme Court in Sarla Verma's case (supra), the multiplier of 15 would be applicable. On account of conventional heads, Rs.70,000/- would be payable to the claimants. The compensation is re-worked as under:-

Heads	***Compensation awarded by MACT***	***Compensation awarded by High Court***
Monthly Income assessed	Rs.1000/- per month	Rs.1200/- per month
(-) Deduction	Rs. 250/- per month (1/3rd)	Rs. 400/- per month (1/3rd)
Dependency	Rs. 750/-per month	Rs. 800/- per month
Annual Dependency	Rs. 750x12=9000/-	Rs.800x12=9600/-
Add Future Prospects 40%	NIL	Rs.3840/-
Total salary after adding future prospects	Rs.9000/-	Rs.9600+3840=13440/-
Multiplier 15 Age 37-38	Rs.9000x25=2,25,000/-	Rs.13440x15=2,01,600/-
Conventional Heads -Loss of estate -Funeral Expenses -Consortium	NIL	 Rs.15000/- Rs.15000/- Rs.40000/- Total= 70,000/-
Total amount of compensation	Rs.2,25,000/-	Rs.201600+70000= Rs.271600/-
Compensation Awarded by the High Court	: Rs.2,71,600-00	
(-)Compensation Awarded by the **MACT**	: Rs.2,25,000-00	
Enhanced Compensation	: Rs. 46,600-00	

The enhanced amount shall carry interest @ 7.5% from the date of filing of the claim petition till its realization.

<u>Cross Objection No.107-CII of 2015</u>

These cross-objections have been filed by the claimants on account of death of Vijay Kumar, who was aged about 26 years. The learned Tribunal treating the deceased to be unskilled labour, has assessed the income at Rs.1200/- per month and applied a cut of 1/4th. Late Sh. Vijay Kumar had left behind widow, two minor girls and parents.

Although, learned counsel for the appellants has vehemently argued that the income assessed by the learned Tribunal is on the lower side, however, taking into consideration the accident took place on 08.07.1983 and there is no evidence available on the file to arrive at a different conclusion, therefore, the income of the deceased has been correctly assessed i.e. Rs.12,00/- per month. A cut of 1/4th has been applied by the learned Tribunal.

Keeping in view that there are 5 claimants, therefore, the cut imposed is kept intact.

As per the judgment passed by a Constitution Bench in ***Pranay Sethi's case (supra)***, in the case arising from death of a self employed person below the age of 40, the income is to be increased by 40% on account of future prospects in the increase of income. Since the deceased was aged about 26 years, therefore, as per the judgment passed in Sarla Verma's case (supra) multiplier of 18 would be applicable. On account of conventional heads i.e. loss of estate, loss of consortium and funeral expenses, total amount being awarded is Rs.70,000/- as laid down by the Constitution Bench. The compensation is re-worked as under:-

Heads	***Compensation awarded by MACT***	***Compensation awarded by High Court***
Monthly Income assessed	Rs.1200/- per month	Rs.1200/- per month
(-) Deduction	Rs. 300/- per month (1/4th)	Rs. 300/- per month (1/4th)
Dependency	Rs. 900/-per month	Rs. 900/- per month
Annual Dependency	Rs. 900x12=10,800/-	Rs.900x12=10,800/-
Add Future Prospects 40%	NIL	Rs.4320/-
Total salary after adding future prospects	NIL	Rs.10800+4320=15120/-
Multiplier 18 Age 26 years	Rs.10800x25=2,70,000/-	Rs.15120x18=2,72,160/-
Conventional Heads -Loss of estate -Funeral Expenses -Consortium	NIL	 Rs.15000/- Rs.15000/- Rs.40000/- Total= 70,000/-
Total amount of compensation	Rs.2,70,000/-	Rs.272160+70000= Rs.3,42,160/-

Heads	***Compensation awarded by MACT***	***Compensation awarded by High Court***
Compensation Awarded by the **High Court**	: Rs.3,42,160-00	
(-)Compensation Awarded by the **MACT**	: Rs.2,70,000-00	
Enhanced Compensation	: Rs. 72,160-00	

The enhanced amount, if any, shall carry interest @ 7.5% from the date of filing of the claim petition till its realization.

The amount deposited in this Court while filing the appeals shall be remitted to the learned Motor Accident Claims Tribunal.

Both the appeals are dismissed and cross objections are allowed.

April 23, 2018 **(ANIL KSHETARPAL)**
nt **JUDGE**

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