(330) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.1304 of 2001 (O&M)
Date of decision: 29.05.2018

Smt. Chanderwati and others …. Appellants

Versus

Azad Singh and others …. Respondents

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

Present: Mr. Arun Jindal, Advocate for the appellants.

Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate for
respondent No.3 - Insurance Company.

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B.S. Walia, J. (Oral),

[1] Widow, four sons and daughter of the deceased Nahar Singh who died in an accident on 10.02.1993 at the age of 46 years while driving a 'Jugaad' (unauthorized, improvised, unregistered vehicle) were awarded compensation of ₹ 60,000/- by holding it to be a case of contributory negligence. The Motor Accident Claims Tribunal, Faridabad (hereinafter referred to as 'the Tribunal') assessed income of the deceased as ₹ 1500/- per month as against claimed income of ₹ 4000/- and by taking into account six dependents of deceased, made a deduction @ 1/3rd and by applying multiplier of 10, awarded compensation of ₹ 1, 20,000/- less ₹60,000/- on account of contributory negligence.

[2] Prayer is for enhancement of compensation awarded. Learned counsel for the appellants/claimants contended that the income of the deceased had not been properly assessed. Besides, deduction towards personal expenses had been wrongly made @ 1/3rd of the income of the deceased as against the requirement to make a deduction @ 1/4th on account of the deceased having left behind six dependants. Learned counsel contended that multiplier of 10 had been wrongly applied as against the requirement to apply multiplier of 13 on account of the deceased being 46 years old at the time of death. Besides, no amount had been awarded on account of conventional heads. Lastly, no future prospects had been awarded.

[3] Learned counsel for the Insurance Company has vehemently argued that in the absence of any evidence having been led by the appellants, the learned Tribunal rightly assessed the income of the deceased at ₹ 1500/- per month. He, however, fairly did not controvert the claim of the appellants qua deduction to be made @ 1/4th instead of 1/3rd, for application of multiplier 13 instead of multiplier 10, for award of compensation on account of conventional heads @ ₹ 40,000/-, ₹ 15,000/-, ₹ 15,000/- towards loss of consortium, loss of estate and funeral expenses respectively. He also did not oppose the claim for award of future prospects, though he very fairly contended that future prospects were to be awarded @ 25% of the income assessed, minus the tax component on account of the deceased being 46 years of age in view of the decision of Hon'ble the Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017(4) RCR (Civil) 1009**.

[4] I have considered the submissions of learned counsel for the parties and am of the view that the appeal is liable to be allowed, though the income assessed by the Tribunal is liable to be left untouched.

[5] As regards the plea that deduction towards personal expenses had been wrongly made @ 1/3rd of the income of the deceased as against the requirement to make a deduction @ 1/4th on account of the deceased having left behind six dependants, it needs noticing that as per paragraph No. 61 (v) of the decision of Hon'ble the Supreme Court in **Pranay Sethi's** case (supra), upholding decision in **'Sarla Verma vs Delhi Transport Corporation', 2009 ACJ 1298,** where number of dependents of the deceased is between 4 to 6, personal expenses of the deceased are to be deducted @ 1/4th of the income of the deceased. Relevant extract of the decision in Pranay Sethi's case (supra) as well as Sarla Verma's is reproduced as under:-

> Paragraph No.61(v) of the decision in **Pranay Sethi's case (supra)**
>
> "*For determination of the multiplicand, the deduction for personal and living expenses, the tribunals and the courts shall be guided by paragraphs 30 to 32 of Sarla Verma which we have reproduced hereinbefore.*"
>
> **Paragraph No.30 of the decision in Sarla Verma's case (supra)**
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> *"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 37 (2003) 3 SLR (R) 601 31 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."*

Accordingly, deduction of personal expenses of the deceased shall be made @ $1/4^{th}$ of the income of the deceased while working out the compensation payable.

[6] Regarding plea of wrong multiplier having been applied, it needs noticing that in view of paragraph No.61 (vi) and paragraph No.42 of the decision of Hon'ble the Supreme Court in **Sarla Verma's** case (supra) as upheld in Pranay Sethi's case (supra), multiplier of 13 is applicable where the deceased was between 46 to 50 years of age. Relevant extract of the decision in **Sarla Verma's** case (supra) is reproduced as under:-

> *"42. 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."*

Accordingly, multiplier of 13 will be applicable while working out compensation payable on account of the deceased being 46 years old at the time of his death.

[7] As regards the prayer for grant of compensation towards loss of consortium, loss of estate as well as funeral expenses, it needs noticing that as per paragraph No.61 (viii) of the decision in **Pranay Sethi's** case (supra) claimant widow is entitled to compensation of ₹40,000/- on account of loss of consortium while ₹15,000/- is payable to claimants on account of loss of estate and ₹15,000/- towards funeral expenses. Paragraph No.61 (viii) of the decision in **Pranay Sethi's** case (supra) is reproduced as under:-

> *"61(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."*

[8] Regarding no amount having been awarded on account of future prospects, it needs noticing that as per paragraph No.61 (iv) of the decision in **Pranay Sethis's** case (supra), where the deceased was between the age of 40 to 50 years, 25% of the established income, minus the tax component, is to be added for working out the future prospects payable. Paragraph No.61 (iv) 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."

[9] In view 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	₹ 1500/-	No Change
2.	Future Prospects	NIL	25 % of ₹ 1500 = ₹ 375/-
3.	Total Income assessed	₹ 1500/-	(₹ 1500 + ₹ 375) = ₹ 1875/-
4.	Multiplier applied	10	13
5.	Deduction (towards personal expenses of deceased)	1/3rd of ₹ 1500/- = ₹ 500/-	1/4th (1/4th of ₹ 1875/-) = ₹ 469/-
6.	Dependency (Annually)	(₹ 1500 - ₹ 500) = ₹ 1000 (per month) ₹1000 x 12 = ₹12,000/-	₹ 1875 - ₹ 469) = ₹ 1406 (per month) ₹ 1406 x 12 = ₹ 16,872/-
7.	Compensation Awarded	₹ 12,000 x 10 = ₹ 1,20,000/-	₹ 16,872 x 13 = ₹ 2,19,336/-
8.	Loss of Consortium	NIL	₹ 40,000/-
9.	Loss of Estate	NIL	₹ 15,000/-
10.	Funeral Expenses	NIL	₹ 15,000/-
	Total	₹ 1,20,000/-	**₹ 2,89,336/-**
Compensation (in actual) on account of Contributory Negligence		₹ 60,000/-	**₹ 1,44,668/-**

[10] Accordingly, as against compensation of ₹ 60,000/- awarded by holding it to be a case of contributory negligence, the claimants - appellants are held entitled to compensation of ₹ 1,44,668/- along with interest @ 7.5% per annum with effect from the date of claim petition till date of payment, less payment, if any, made earlier. It is further made clear that payment on account of enhancement of compensation shall be disbursed to the appellants after making the amount of compensation towards loss of consortium first

being paid to the widow of the deceased and thereafter, the balance amount being divided in equal proportion amongst the appellants.

[11] Accordingly, appeal is allowed by modifying Award dated 12.08.2000 passed by the learned Tribunal to the extent as noted above.

(B.S. Walia)
Judge

29.05.2018
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1.	Whether speaking/reasoned	:	Yes/No.
2.	Whether reportable	:	Yes/No.