IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1542 of 2001 (O&M)
Date of Order: 26.04.2018

Smt. Guddi and others **..Appellants**

Versus

Surjeet Singh and others **..Respondents**

FAO No.1543 of 2001 (O&M)

Mohana Devi and others **..Appellants**

Versus

Surjeet Singh and others **..Respondents**

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vinod Gupta, Advocate,
for the appellants.

Ms. Vandana Malhotra, Advocate,
for the respondent-Insurance Company.

ANIL KSHETARPAL, J.

By this judgment, I shall dispose of FAO No.1542 of 2001 and FAO No.1543 of 2001.

Ms. Vandana Malhotra, Advocate, had appeared for the Insurance Company before the Lok Adalat in both the cases is present in Court. However, she says that these cases have not been marked to her. These appeals are pending for the last 17 years. Ms. Vandana Malhotra, Advocate, on the direction of this Court, has accepted notice and agreed to assist the court on behalf of the Insurance Company.

With the consent of learned counsel for the parties, arguments have been heard. In both the appeals, claimants are the appellants.

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***FAO No.*1542 of 2001**.

FAO No.1542 of 2001 has been filed by the claimants seeking enhancement of compensation on account of death of Ram Kumar, who was aged about 35 years. He has left behind widow, one daughter, two sons and the mother. The learned Motor Accident Claims Tribunal (hereinafter referred to as "the Tribunal") assessed the income of the deceased at Rs.1,800/- per month and therefore, imposed a cut of 1/3rd on account of personal expenses and, thus, worked out dependency at Rs.600/- and multiplier of 17 was applied.

Learned counsel for the appellants has argued that the income of the deceased assessed is on the lower side as even if deceased is taken to be unskilled labour, the income should have been Rs.2500/- per month. He has submitted that deduction of 1/3rd on account of personal expenses is excessive keeping in view five dependents. Learned counsel has further submitted that as per the judgment passed by the Constitution Bench on account of future prospects, appellants shall be entitled to 40%. However, he submits that the learned Tribunal has not granted anything on account of future prospects. He submitted that in case of self employed person below the age of 40 on account of future prospects, 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 respondent-Insurance Company has submitted that there is no evidence available on the file to

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assess the income at Rs.2500/- per month. She has submitted that the accident took place more than 21 years back and the court assessed the income at Rs.1800/- per month.

Since, there is no evidence available on the file to re-assess the income, which has been assessed by the learned Tribunal, therefore, the finding of the learned Tribunal with regard to income is upheld. However, keeping in view that there are total six members including the deceased and there were 5 dependents, the cut imposed by the learned Tribunal is excessive, it ought to be $1/4^{th}$. 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*** and keeping in view the age of the deceased, the multiplier of 16 is applied instead of 17. Thus, taking the income of Rs.1800/- and applying a cut of $1/4^{th}$, the dependency is worked out at Rs.1800-$1/4^{th}$ =Rs.1350/-

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.720/- thus the dependency comes to Rs.1350+720=2070/-.

As per judgment passed by the Hon'ble Supreme Court in Sarla Verma's case (supra), the multiplier of 16 would be applicable. Hence, 2070x12x16=397440/-. 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.1800/- per month	Rs.1800/- per month

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Heads	*Compensation awarded by MACT*	*Compensation awarded by High Court*
(-) Deduction	Rs. 600/- per month (1/3rd)	Rs. 450/- per month (1/4th)
Dependency	Rs. 1200/-per month	Rs. 1350/- per month
Annual Dependency	Rs. 1200x12=14400/-	Rs.1350x12=16200/-
Add Future Prospects 40%	NIL	Rs.6480/-
Total salary after adding future prospects	Rs.14400/-	Rs.16200+6480=22680/-
Multiplier 16 Age 37-38	Rs.14400x17=2,44,800 /-	Rs.22680x16=3,62,880/-
Conventional Heads -Loss of estate -Funeral Expenses -Consortium	NIL	 Rs.15000/- Rs.15000/- Rs.40000/- Total= 70,000/-
Total amount of compensation	Rs.2,44,800/-	Rs.362880+70000= Rs.432880/-
Compensation Awarded by the High Court	: Rs.432880-00	
(-)Compensation Awarded by the **MACT**	: Rs.244800-00	
Enhanced Compensation	: Rs.188080-00	

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

<u>FAO NO.1543 of 2001</u>

FAO No.1543 of 2001 has been filed by the widow, three minor children and mother of late Sh. Mani Ram, who was aged about 25 years at the time of accident. The learned Motor Accident Claims Tribunal (hereinafter referred to as “the Tribunal”) assessed the income of the deceased at Rs.1,800/- per month and keeping in view the date of accident is 14.07.1997, the learned Tribunal imposed a cut of 1/3rd on account of personal expenses and, thus, worked out dependency at Rs.600/- and multiplier of 17 was applied.

Learned counsel for the appellants has vehemently argued that

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the income of the deceased assessed is on the lower side as even if deceased is taken to be unskilled labour, the income should have been Rs.2500/- per month He has further submitted that deduction of 1/3rd on account of personal expenses is excessive keeping in view the five dependents. Learned counsel has further submitted that as per the judgment passed by the Constitution Bench on account of future prospects, appellants shall be entitled to 40%. However, he submits that the learned Tribunal has not granted anything on account of future prospects. He submitted that in case of self employed person below the age of 40 on account of future prospects, 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 respondent-Insurance Company has submitted that there is no evidence available on the file to assess the income at Rs.2500/- per month. She has submitted that the accident took place more than 21 years back and the court assessed the income at Rs.1800/- per month.

Since, there is no evidence available on the file to re-assess the income, which has been assessed by the learned Tribunal, therefore, the finding of the learned Tribunal with regard to income is upheld. However, keeping in view that there are total six members including the deceased and there were 5 dependents, the cut imposed by the learned Tribunal is excessive, it ought to be 1/4th. As per the judgment passed by the Hon'ble Supreme Court in ***Smt. Sarla Verma and others v. Delhi Transport***

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Corporation and another (2009) 6 SCC 121 and keeping in view the age of the deceased, the multiplier applied by the learned Tribunal is on the lower side, which is increased to 18 instead of 17. Thus, taking the income of Rs.1800/- and applying a cut of $1/4^{th}$, the dependency is worked out at Rs.1800-$1/4^{th}$ =Rs.1350/-

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.720/- thus the dependency comes to Rs.1350+720=2070/-.

As per judgment passed by the Hon'ble Supreme Court in Sarla Verma's case (supra), the multiplier of 18 would be applicable. Hence, 2070x12x18=4,47,120/-. 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.1800/- per month	Rs.1800/- per month
(-) Deduction	Rs. 600/- per month ($1/3^{rd}$)	Rs. 450/- per month (1/4th)
Dependency	Rs. 1200/-per month	Rs. 1350/- per month
Annual Dependency	Rs. 1200x12=14400/-	Rs.1350x12=16200/-
Add Future Prospects 40%	NIL	Rs.6480/-
Total salary after adding future prospects	Rs.14400/-	Rs.16200+6480=22680/-
Multiplier 16 Age 37-38	Rs.14400x17=2,44,800/-	Rs.22680x18=4,08,240/-
Conventional Heads -Loss of estate -Funeral Expenses -Consortium	NIL	 Rs.15000/- Rs.15000/- Rs.40000/- Total= 70,000/-

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Heads	*Compensation awarded by MACT*	*Compensation awarded by High Court*
Total amount of compensation	Rs.2,44,800/-	Rs.408240+70000= Rs.478240/-

Compensation Awarded by the High Court	: Rs.478240-00
(-)Compensation Awarded by the **MACT**	: Rs.244800-00
Enhanced Compensation	: Rs.233440-00

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

April 26, 2018 **(ANIL KSHETARPAL)**
nt **JUDGE**

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

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