IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3047 of 2001 (O&M)
Date of Decision : 30.05.2018.

Kamlesh and another

... Petitioners

versus

Rajinder Singh and others

.... Respondents

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

Present: Mr. K.S. Dhanora, Advocate for the appellants.

Mr. Suveer Dewan, Advocate for respondent No.3.

Respondent Nos. 4 and 5 already ex parte.

None for respondent Nos.1, 2 and 6.

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B.S.WALIA, J.

1. The wife and then two minor sons of the deceased, Parkash, have challenged the award of ₹2,57,000/- passed in favour of the appellants as well as parents of deceased Parkash, who died in a motor vehicular accident on 15.02.1995, at the age of 30 years.

2. The deceased was working as a Cashier at Faridabad in a Transport Company. Income of the deceased was claimed to be ₹5,000/- per month. However, the same was assessed at ₹2,000/- per month and by applying multiplier of '16' and awarding ₹10,000/- as loss of consortium, ₹7,000/- towards personal expenses and transportation of dead body, total sum of ₹2,57,000/- was awarded as compensation.

3. The instant FAO is one of the cases which were burnt in a fire incident which had broken out in the Registry of this Court a few years

ago. The reconstructed paperbook comprises of pages which are not readable properly. However, learned counsel for the appellants has given two synopsis of one page each of the case while learned counsel for the Insurance Company has given one page of synopsis. The aforementioned signed synopsis submitted by learned counsel for the parties are taken on record.

4. Learned counsel for the appellants contended that income of the deceased ought to have been taken at minimum rate of ₹2500/- per month in view of his having been employed as cashier. Besides no amount was awarded on account of loss of future prospects, therefore, compensation was liable to be worked out while taking the income of the deceased as ₹2500/- per month and also by awarding future prospects. Prayer is also for enhancing the amount payable on account of conventional heads as well as for applying the multiplier of '17' instead of '16' as deceased was 30 years old. Claim is that as against compensation of ₹2,57,000/-, compensation of ₹6,05,500/ is to be awarded along with interest at the rate of 12% per annum. In the alternative, learned counsel for the appellants has contended that the appellants are entitled to award of future prospects on income assessed at the rate of Rs.2000/- by applying multiplier of '17' and by making deduction towards personal expenses at the rate of 1/4th of income of deceased. In the circumstances, learned counsel contended that the compensation is liable to be enhanced from ₹2,57,000/- to ₹4,98,400/- along with interest at the rate of 12% per annum. Learned counsel further contended that the two minor sons of the deceased have now become

major, therefore, they are entitled to release of their share of the compensation awarded.

5. Learned counsel for the insurance company, on the other hand, has contended that income of Rs.2000/- was correctly assessed by the Tribunal and the appellants have not been able to make out a case for making higher assessment of income of the deceased. In the circumstances, learned counsel for the respondent-Insurance Company contends that future prospects are to be awarded in accordance with the decision in National Insurance Company Ltd. versus Pranay Sethi and others, 2017(4) RCR (Civil) 2009 and by making 1/3rd deduction towards personal expenses. Learned counsel for the respondent-Insurance has not disputed award of compensation of Rs.70,000/- under conventional heads. In the circumstances, learned counsel for the respondent-Insurance Company contends that total compensation payable works out to ₹3,80,868/-.

6. I have considered the submissions of learned counsel for the parties.

7. Learned counsel for the appellants has not been able to show any ground for enhancement of income of deceased from that as was assessed by the Tribunal. However, no amount was awarded by the Tribunal towards future prospects, whereas, in accordance with paragraph No.61 (iv) of the decision in Pranay Sethi's case (supra), since the deceased was 30 years of age, therefore, 40% of the income of the deceased less tax component was required to be added for the purpose of grant of future prospects. Likewise, in view of paragraph No.42 of the decision in Sarla Verma vs. Delhi Transport Corporation and another 2009(6) SCC 121, as referred to paragraph No.61(vi) of the decision in Pranay Sethi's case

(supra), since the deceased was 30 years of age, multiplier of '17' instead of '16' is applicable. Paragraph No.42 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."

8. Likewise, paragraph No.61(viii) of the decision in Pranay Sethi's case (supra), which provides for award of compensation of ₹70,000/- under conventional heads is reproduced as under:-

> "61(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. The deceased left behind the appellants i.e. wife and two minor children, besides mother and father. However, I take the total number of dependents of the deceased as 'four', as it is not discernible as to whether the father of the deceased was dependent on the deceased. As per paragraph No.30 of the decision in Sarla Verma's case (supra) read with paragraph No.61(v) of the decision in Pranay Sethi's case (supra), deduction towards

personal expenses in case of four dependents would be at the rate of 1/4th of the income of the deceased.

Paragraph No.30 of the decision in Sarla Verma's case (supra) read with paragraph No.vi (v) of the decision in Pranay Sethi's case (supra) are 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(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.

Paragraph 61(v) of Pranay Sethi's case (supra)

(v) 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.

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	₹2000/-	₹2000/-
2.	Future Prospectus	Nil	40%
3.	Total Monthly Income	₹2000/-	₹2800/-
4.	Deduction	1/3rd i.e. 2000-750+=1250	1/4th i.e. 2800-700=2100

5.	Dependency	2000-750=1250x12x16= 2,40,000	2100x12x17=4,28,400
6.	Multiplier	‘16’	‘17’
7.	Loss of consortium	₹10,000/-	₹40,000/-
8.	Loss of Estate	Nil	₹15,000/-
9.	Funeral expenses	₹7,000/-	₹15000/-
	Total	₹2,57,000/-	₹4,98,400/-

11. Accordingly, in view of the position as noted above, as against the compensation of ₹2,57,000/- awarded to the appellants, the appellants are held entitled to award of compensation of ₹4,98,400/- 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 after first making payment of ₹40,000/- towards loss of consortium to the widow of the deceased. Insurance Company would make the payment towards future prospects after deducting the tax component in respect thereto in accordance with the decision of Hon’ble the Supreme Court in Pranay Sethi’s case (supra).

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

(B.S.WALIA)
JUDGE

30.05.2018.
rajesh.k.khurana

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