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

FAO No.465 of 2001 (O&M)
Date of decision: 09.02.2018

Gurmit Kaur and others …. Appellants

Versus

Jagjit Pal Singh and others …. Respondents

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

Present: Mr. Ashok Jindal, Advocate for the appellants.
Ms. Sandeep Kaur, Advocate for respondent Nos.2 & 3.
Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate for respondent No.4.
Mr. Nikunj Dhawan, Advocate for Mr. Harsh Aggarwal, Advocate for the respondent- Insurance Company.

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

[1] Appeal has been filed by the widow, three children, including appellant No.4, who was then a minor and mother of Darshan Singh, who died in an accident on 02.11.1991 at the age of 38 years, against award dated 09.08.2000 by the Motor Accidents Claim Tribunal, Bathinda (hereinafter referred to as the Tribunal) awarded compensation of ₹1,75,000/- i.e. ₹1,72,800/- and ₹2200/- towards funeral expenses by taking into account five dependents of the deceased, making deduction of 1/3rd of the income of the deceased towards his personal expenses and by applying multiplier of 12.

[2] Prayer is for enhancement of compensation awarded. Learned counsel contended that the income assessed at ₹1800/- per month was wrongly

assessed and the same ought to have been assessed at ₹5000/- in view of the deceased owning 20 killas of agricultural land. 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 five dependants. Learned counsel contended that multiplier of 12 had been wrongly applied as against the requirement to apply multiplier of 15 on account of the deceased being 38 years old at the time of death. Learned counsel further contended that compensation awarded on account of conventional heads was liable to be enhanced from ₹2200/- to ₹15,000/- for funeral expenses, besides, ₹40,000/- for loss of consortium and ₹15,000/- towards loss of estate.

[3] Per contra, Mr. Neeraj Khanna, Advocate and Mr. Nikunj Dhawan, Advocate, learned counsel appearing on behalf of the Insurance Company contended that the Insurance Company had been exonerated of liability to make payment of compensation and the same had been imposed on the Pepsu Road Transport Corporation. Besides, FAO No.4 of 2001 filed by the Pepsu Road Transport Corporation imposing liability on it had been dismissed by this Court vide order dated 16.05.2002. Aforementioned aspect of the matter has not been disputed by counsel appearing on behalf of respondent Nos. 2 and 3.

[4] I have considered the submissions made by learned counsel for the parties.

[5] No doubt appellants had claimed that the deceased was earning ₹5000/- per month on account of owning 20 killas of land and working as an agriculturist. However, as is evident from paragraph No.16 of the Award, no evidence was led of the deceased owning 20 killas of land. In the

circumstances, the finding of the Tribunal taking the income of the deceased as an unskilled worker at ₹1800/- per month does not warrant interference. Regarding plea of wrong multiplier having been applied, it needs noticing that in view of paragraph No.44 of the decision of the Hon'ble Supreme Court in **National Insurance Company Limited vs Pranay Sethi and others-2017(4) RCR (Civil) 1009** upholding decision in **'Sarla Verma vs Delhi Transport Corporation', 2009 ACJ 1298,** multiplier of 15 is applicable where the deceased was between 36 to 40 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 15 will be applicable while working out compensation payable on account of the deceased being 38 years old at the time of his death.

[6] 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 five dependants, it needs noticing that as per paragraph No. 61(v)

of the decision of the Hon'ble Supreme Court in **Pranay Sethi's** case (supra), upholding view in **Sarla Verma's** case (supra), 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 Sethis case (supra) is reproduced as under :

> *"39. Before we proceed to analyse the principle for addition of future prospects, we think it seemly to clear the maze which is vividly reflectible from Sarla Verma, Reshma Kumari, Rajesh and Munna Lal Jain. Three aspects need to be clarified. The first one pertains to deduction towards personal and living expenses. In paragraphs 30, 31 and 32, Sarla Verma lays down:-*
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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."*
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> *61. In view of the aforesaid analysis, we proceed to record our conclusions:-*
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> *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.*

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

[7] As regards the plea for grant of Future Prospects, it needs noticing that as per paragraph No.61 (iv) of the decision in **Pranay Sethis's** case (supra), in case the deceased was self-employed, addition of 40% of the established income is to be made to the income of the deceased towards future prospects, minus the tax component where the deceased was below the age of 40 years. 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.*"

[8] Since the deceased was 38 years of age and was self employed, an addition of 40% of the established income is to be made towards future prospects minus the tax component.

[9] As regards the prayer for grant of compensation towards loss of consortium, loss of estate as well as appropriate compensation towards funeral expenses, it needs noticing that as per paragraph No.61 (viii) of the decision in **Pranay Sethi's** case (supra) the deceased's wife 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."*

In the light of the position as noted above, the deceased's wife will be entitled to ₹40,000/- on account of loss of consortium while the appellants would be entitled to a sum of ₹15,000/- on account of loss of estate and ₹15,000/- towards funeral expenses as against ₹2200/- awarded by the learned Tribunal.

[10] In view of the position as noted above, compensation payable on enhancement works out as under :-

Sr. No.	**Heads**	**Amount assessed by the Tribunal.**	**Amount assessed by this Court.**
1.	Income	₹1800/-	No Change
2.	Future Prospects	NIL	40 % of ₹ 1800 = ₹720/-
3.	Total Income assessed	₹1800/-	(₹ 1800 + ₹ 720) = ₹ 2520/-
4.	Deduction (monthly of total income assessed) towards personal expenses of deceased	1/3rd of ₹1800/- = ₹600/-	1/4th (1/4th of ₹ 2520/-) = ₹ 630/-
5.	Dependency (Annually)	(₹1800- ₹600) = ₹1200 (per month) ₹1200 x 12 = ₹14,400/-	₹ 2520 - ₹ 630) = ₹ 1890 (per month) ₹1890 x 12 = ₹22,680/-
6.	Multiplier applied	12	15
7.	Compensation Awarded	₹14,400 x 12= ₹1,72,800/-	₹ 22,680 x 15 = ₹ 3,40,200/-
8.	Loss of Consortium	NIL	₹40,000/-
9.	Loss of Estate	NIL	₹15,000/-
10.	Funeral Expenses	₹2200/-	₹15,000/-
	Total	₹1,75,000/-	**₹4,10,200/-**

[11] Accordingly, as against compensation of ₹1,75,000/- awarded by the Tribunal, the claimant-appellants would be entitled to compensation of

₹4,10,200/- along with interest @ 7.5% per annum w.e.f. date of claim petition till date of payment, less payment, if any, made earlier.

[12] Needless to mention, liability to make payment in terms of the Award would devolve upon the Pepsu Road Transport Corporation, Patiala.

[13] Accordingly, appeal is allowed by modifying Award dated 09.08.2000 passed by the learned Tribunal to the extent as noted above.

(B.S. Walia)
Judge

09.02.2018
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1.	Whether speaking/reasoned	:	Yes/No.
2.	Whether reportable	:	Yes/No.