IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.402 of 2003
Date of Decision :02.04.2018

Paramjeet Kaur & others. ....APPELLANTS

VERSUS

Harbinder Kumar @ Binder & ors. ...RESPONDENTS

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

Present: Mr. Ashwani Arora, Advocate
for the appellants.

Mr. Pardeep Goyal, Advocate for
Mr. Suman Jain, Advocate
for respondent No.3-Insurance Company.

B.S. WALIA, JUDGE (ORAL).,

1. Appeal has been filed by the widow and three children of deceased Ravinderpal Singh i.e husband of appellant No.1 and father of appellant Nos.2 to 4 who died in a motor vehicle accident on 13.7.2000 at the age of 49 yrs. Date of birth of deceased was 9.9.1951. He was employed as a Manager in Punjab National Bank, Mullanpur and was getting gross monthly salary of ₹20,546/-. The Tribunal assessed income of the deceased as ₹18,046/- after deducting ₹2500/- as income tax payable and thereafter by making deduction of 1/3rd of the income i.e ₹6,046/- towards personal expenses of the deceased worked out monthly dependency of ₹12,000/- and annual dependency of ₹1,44,000/-. By applying multiplier of 11, compensation on account of dependency was worked

out at ₹15,84,000/-.

2. Learned counsel for the appellants has assailed the award on the ground that since the deceased was 49 years of age, therefore in terms of paragraph No.44 of the decision of Hon'ble the 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 13 was to be applied.

3. Secondly by relying upon the decision of Hon'ble the Supreme Court in **Pranay Sethi's case (supra)** upholding decision in **Sarla Verma's** case (supra), learned counsel contended that in view of 4 dependents of the deceased, 1/4th deduction from income was to be made towards personal expenses instead of 1/3rd.

4. Learned counsel further contends that the award is also liable to be modified on the ground that only a sum of ₹10,000/- was awarded towards loss of consortium, ₹6,000/- towards funeral expenses and no amount was awarded on account of loss of estate whereas as per paragraph 61(viii) of the decision in **Pranay Sethi's** case (supra) a sum of ₹40,000/- is liable to be awarded on account of loss of consortium, ₹15,000/- towards funeral expenses and ₹15,000/- towards loss of estate respectively. Accordingly, learned counsel contends that amount payable as compensation on account of conventional heads is liable to be enhanced to ₹70,000/-. Lastly, learned counsel contends that no amount has been awarded towards future prospects and in view of paragraph No.42 of the decision of Hon'ble the Supreme Court in **Pranay Sethi's** case (supra) in view of the deceased being employed against a fixed salary and being less than 50 years of

age, 30% of his income was to be added for working out future prospects.

5. Learned counsel for the Insurance Company on the other hand very fairly states that the amount claimed by the appellants is in consonance with the latest pronouncement of Hon'ble the Supreme Court in **Pranay Sethi's** case (supra). However, the amount which is to be added for ascertaining the future prospects payable is to be subject to payment of income tax.

6. Learned counsel for the respondents assails the award only to the extent of award of interest @ 9% instead of 7.5% and prays that the rate of interest be reduced to 7.5%.

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

8. As per para No.42 of the decision of the Hon'ble Supreme Court in **Pranay Sethi's** case (supra), multiplier of 13 is to be applied in case the deceased was 49 years of age. Since the deceased was 49 years of age, accordingly multiplier of 13 and not 11 is applicable. 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.*"

9. Likewise, since number of dependents of the deceased were four therefore, personal expenses was to be deducted from the income of the deceased @ 1/4th and not 1/3rd in terms of the decision of Hon'ble the Supreme Court in **Pranay Sethi's** case (supra). Relevant extract of the decision in **Pranay Sethi's**

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:-*
> "*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."*
> *61. In view of the aforesaid analysis, we proceed to record our conclusions:-*
>
> > *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. Thirdly, the compensation payable on account of loss of consortium, loss of estate and funeral expenses is to be awarded @ ₹40,000/-, ₹15,000 and ₹15,000/- respectively whereas the Tribunal has awarded only a sum of ₹10,000/- and ₹6000/-, on account of loss of consortium and funeral expenses only. Accordingly, the amount payable on account of conventional head is enhanced to the amount in terms of para No.61 of the decision of Hon'ble the Supreme Court in **Pranay Sethi's** case (supra). 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."*

11. Resultantly, the appellants shall be entitled to lumpsum of ₹70,000/- on account of conventional heads.

12. As regards the award of future prospects, as per paragraph No.42 of the decision of Hon'ble the Supreme Court in **Pranay Sethi's** case (supra) where the deceased was employed and was less than 50 years of age then 30% of the established income less income tax payable is to be taken into account for the purpose of working out the future prospects. Accordingly, in the light of the position as noted above, the award is liable to be modified and the compensation awarded is liable to be enhanced as per details as under:

Sr. No.	Head	Amount assessed by Tribunal in ₹	Amount assessed by this Court in ₹
1	Income	**18,046/-**	**No change**
2	Future prospects	**NIL**	**@ 30%= 5414**
3	Total income assessed	**18046/-**	**23,460/-**
5	Deduction towards personal expenses of deceased.	**6015/- (1/3rd)**	**5865- (1/4th)**
4	Dependency arrived at	**12,000/-**	**17,595/-**
6	Multiplier applied	**11**	**13**
7	Compensation awarded	**12000x12x11 = 15,84,000/-**	**17595x12x13 = 27,44,820/-**
8	Loss of consortium	**10,000/-**	**40,000/-**
9	Funeral expenses	**6,000/-**	**15,000/-**
10.	Loss of Estate	**Nil**	**15,000/-**
	Total	**16,00,000/-**	**28,14,820/-**

13. Resultantly, as against the compensation of ₹16,00,000/- awarded to the claimants by the Tribunal, the appellants are entitled to award of compensation of ₹28,14,820/- along with interest @ 7.5% per annum with effect from the date of the claim petition till realisation of the amount, less payment, if any, already

made.

14. Accordingly, the appeal is allowed. Award dated 08.11.2002 passed by the learned MACT, Chandigarh is modified to the extent as noted above. Learned counsel for the appellants states that appellant Nos.3 and 4 who were minor at the time of passing of the award have since attained majority.

15. Since all the appellants are major, amount on account of enhancement alongwith interest @ 7.5% per annum with effect from the date of claim petition till realisation of the payment, less payment, if any, already made, be released to the appellants as per respective shares in the ratio fixed by the Tribunal.

(B.S. WALIA)
JUDGE

April 02, 2018
ps

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