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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.2812 of 2003 (O&M)
Date of Decision : 12.09.2018

Paramjit Kaur and ors.
...Appellants

versus

Amarnath and ors.
....Respondents

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

Present: Mr.Jagdish Marwaha, Advocate
for the appellants.

Mr.K.S.Banyana, Advocate
for respondent No.1.

Mr.A.K.Spehia, Advocate, for
Mr.H.S.Dhandi, Advocate,
for respondent No.2.

Mr.Ajay Singla, Advocate,
for respondent No.3.

Mr.Shaktipal Singh Mann, Advocate, for
Mr.I.P.S.Doabia, Advocate,
for respondent Nos.5 and 6.

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B.S.WALIA, J. (ORAL)

CM No.13007-CII of 2003

For the reasons as are mentioned in the application, the same is allowed. Delay of 318 days in refiling the appeal is condoned.

FAO No.2812 of 2003

1. Appeal has been filed by the widow and three minor children of deceased Karam Singh, Helper in Pepsu Road Transport Corporation, Patiala (hereinafter referred to as "PRTC"), who died in a motor vehicular accident on 27.01.1999. Learned Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as "the Tribunal") assessed the monthly income of

the deceased at ₹5,528/- and by imposing a cut of ₹1528/- in the income of the deceased towards his personal expenses, assessed monthly dependency at ₹4,000/- and annual dependency at ₹48,000/-. Thereafter, by applying multiplier of 14, total compensation of ₹6,72,000/-was awarded along with interest @ 9% per annum.

2. Learned counsel for the appellants has raised three-fold submissions for seeking enhancement of compensation awarded. Firstly, that as per paragraph No.30 of the decision of Hon'ble the Supreme Court in **Sarla Verma Vs. Delhi Transport Corporation, 2009, ACJ 1298,** in case of four dependents, deduction is to be made @ 1/4th of the income of the deceased, whereas the deduction had been made a higher rate from the income of the deceased. Paragraph No.30 of the decision in **Sarla Verma's** case (supra) is 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 Chandra, the general practice is to apply standardized deductions. Having considered several subsequent decisions of this 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 exceed six."*

3. Since in the instant case, the deceased admittedly left behind four dependents, therefore, deduction qua personal expenses of the deceased

would be @ 1/4th of the income.

4. Secondly, learned counsel has contended that although the deceased was working against permanent post of Helper in PRTC, future prospects were not awarded. As per paragraph No.61(iii) of the decision of Hon'ble the Supreme Court in **National Insurance Company Limited Vs. Pranay Sethi and others 2017(4) RCR (Civil) 1009,** where the deceased was between 40 to 50 years of age and was employed on permanent job, 30% of the income of the deceased is to be taken into account for computing future prospects. Paragraph No.61 (iii) of the decision of **Pranay Sethi's** case (supra) is reproduced as under:-

> "*61(iii) While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.*"

5. Since in the instant case, deceased was admittedly 44 years of age and was working on a permanent job as Helper in PRTC, therefore, 30% of his income is to be taken into account for computing future prospects.

6. Lastly, learned counsel has contended that no compensation has been awarded on account of conventional heads. As per paragraph No.61 (viii) of the decision of **Pranay Sethi's** case (supra), a sum of ₹40,000/- is payable on account of loss of consortium, while a sum of ₹15,000/- each is payable on account of loss of estate and funeral expenses respectively.

Relevant extract of the aforementioned decision 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."*

7. Accordingly, in the light of decision in **Pranay Sethi's** case (supra), the appellants are held entitled to award of ₹70,000/- as compensation on account of conventional heads.

8. In the light of the position as noted above, the amount of compensation payable works out as under:-

Sr. No.	Head	Amount assessed by Tribunal in ₹	Amount assessed by this Court in ₹
1	Income	₹5528/-	₹5,528/-
2	Future prospects	Nil	30% of ₹5528/- =₹1658/-
3	Total income assessed	₹5528/-	₹7186/-
4	Deduction towards personal expenses of deceased.	₹1528/-	1/4th of ₹7186=₹1796/-
5	Dependency arrived at	₹4,000/-	₹5390/-
6	Multiplier applied	14	14
7	Compensation awarded	4000x12x14=6,72,000/-	₹5390x12x14= ₹9,05,520/-
8	Loss of consortium	Nil	₹40,000/-
9	Transportation and Funeral expenses	Nil	₹15,000/- (funeral ₹expenses only)
10	Loss of Estate	Nil	₹15,000/-
	Total	₹6,72,000/-	₹9,75,520/-

9. Accordingly, in the light of the position as noted above, the appellants are held entitled to compensation of ₹9,75,520/- as against ₹6,72,000/- as awarded by the Tribunal, alongwith interest @ 9% per annum

with effect from the date of claim petition till date of payment, less amount, if any, already made. Needless to mention, the appellants would be entitled to the award of compensation in proportion to their shares as determined by the Tribunal, after first making payment of ₹40,000/- towards loss of consortium to the widow of the deceased. The Insurance Company shall make payment of compensation after deducting tax liability qua the future prospects in accordance with the decision in **Pranay Sethi's** case (supra).

10. Accordingly, Appeal is allowed. Award dated 04.01.2002 passed by the learned MACT, Chandigarh is modified to the extent as noted above.

11. Since the main case has been decided, all the pending C.Ms shall stand disposed of.

September 12, 2018 **(B.S.WALIA)**
rajesh/P.seth **JUDGE**

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