

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.3699 of 2002
Date of Decision :19.01.2018

Arjun Dass & others

....APPELLANTS

VERSUS

Duliya @ Partap Singh & ors.

.....RESPONDENTS

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

Present: Ms. Monika Arora, Advocate
for the appellants.

Mr. Rohit Goswami, Advocate for
Mr. D.P.Gupta, Advocate
for respondent No.3-Insurance Company.

B.S. WALIA, JUDGE (ORAL),

[1] Challenge by the parents of the deceased to award dated 08.04.2002 passed by the learned Motor Accidents Claims Tribunal, Panipat (hereinafter referred to as “the Tribunal”) is on the ground that no amount was awarded on account of future prospects besides amount awarded on account of loss of estate and funeral expenses is on the lower side. The Tribunal, by taking the deceased to be 20-22 years old and earning ₹ 1500/- per month, worked out dependancy at ₹ 750/- per month, and by applying multiplier of 20, assessed compensation payable at ₹ 1,80,000/- besides ₹ 10,000/- in lumpsum on account of loss of consortium, loss of estate and funeral expenses, total ₹ 1,90,000/- to be shared equally by the mother and father of the deceased.

[2] Per contra learned counsel for the Insurance Company contended that age of the deceased was wrongly taken as 20 years for as per postmortem report, the

deceased was 17 years of age. On the basis of the same, learned counsel contended that multiplier of 20 was wrongly applied and multiplier of 18 was required to be applied instead and compensation worked out accordingly.

[3] I have considered the submissions of learned counsel for the parties.

[4] Admittedly, postmortem report records age of the deceased as 17 years. Income of the deceased was assessed at ₹1500/- per month and multiplier of 20 was applied for awarding compensation of ₹1,80,000/-. Besides, an amount of ₹10,000/- was awarded towards funeral expenses, loss of consortium and loss of estate.

[5] Since the deceased was unmarried and claimants are his parents, therefore 50% of income of the deceased is liable to be deducted as personal and living expenses of the deceased in view of paragraph No. 31 of the decision in **'Sarla Verma vs Delhi Transport Corporation', 2009 ACJ 1298**, as approved in paragraph No. 61(v) in **National Insurance Company Limited v/s Pranay Sethi and others 2017(4) RCR (Civil) 1009**. 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.

31. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent(s) and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependant and the mother alone will be considered as a dependant. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependants, because they will either be independent and earning, or married, or be dependent on the father.

32. Thus even if the deceased is survived by parents and siblings, only the mother would be considered to be a dependant, and 50% would be treated as the personal and living expenses of the bachelor and 50% as the contribution to the family. However, where the family of the bachelor is large and dependent on the income of the deceased, as in a case where he has a widowed mother and large number of younger nonearning sisters or brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two-third.”

[6] 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 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. Relevant extract of aforesaid decision 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.”

Since the deceased was self employed, 17 years old therefore , 40% of his established income minus the tax component is to be added towards future prospects.

[7] 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 **Pranay Sethi**' case (**supra**) upholding decision in '**Sarla Verma's** case (**supra**) multiplier of 18 is applicable where the deceased was between 16 to 20 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.”

Since the postmortem report mentions the age of the deceased as 17 years and there is no evidence to the contrary except an assertion in the claim petition of the deceased being 20-22 years of age, age of the deceased has to be taken as 17 years. Accordingly, multiplier of 18 will be applicable while working out compensation payable.

[8] As regards the prayer for grant of appropriate compensation towards loss of consortium, loss of estate as well as funeral expenses, it needs noticing that as per paragraph No.61 (viii) of the decision in **Pranay Sethi's** case (**supra**) ₹ 40,000/- is payable on account of loss of consortium while ₹15,000/- each is payable on account of loss of estate and 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.”

Since the deceased was unmarried, the mother of deceased will only be entitled to ₹15,000/- each on account of loss of estate and funeral expenses as against ₹ 10,000/- awarded by the Tribunal towards loss of consortium, loss of estate as well as funeral expenses. No amount will be payable for loss of consortium as deceased was unmarried. Since the deceased’s father was earning therefore he cannot be said to have been dependent on his deceased son aged 17 years. Therefore the father would not be entitled to any compensation.

[9] Accordingly, in the light of the position as noted above, compensation payable on enhancement works out as under :-

Sr. No.	Head	Amount assessed by Tribunal	Amount assessed by this Court
1	Income	₹ 1500/-	No change
2	Future prospects	NIL	@ 40%=₹ 600/-
3	Total income assessed	₹1500/-	₹2100/-
4	Deduction of 50% towards personal expenses of deceased.	₹750 /-per month	₹1050/- per month
5	Dependency arrived at	₹750/- per month	₹1050/- per month
6	Multiplier applied	20	18
7	Compensation awarded	₹750 x 20 x 12 = ₹1,80,000/-	₹1050 x 18 x 12 = ₹2,26,800/-
8	Funeral expenses	Rs 10000/-(qua claim against serial no. 8-10)	₹15,000/-
9	Loss of Estate	NIL	₹15,000/-
10	Loss of consortium	Consolidated amount of ₹ 10,000/-(qua claim against serial No. 8-10)	Nil
	Total	₹1,90,000/-	₹2,56,800/-

[10] Resultantly, compensation of ₹1,90,000/- awarded to the appellants on account of death of Rakesh Kumar is enhanced to ₹2,56,800/- along with interest

as awarded by the Tribunal @ 9% per annum with effect from the date of the claim petition till realisation of the payment, less payment, if any, already made. However, compensation will be paid to the mother alone. The father of the deceased will not be entitled to any compensation in the light of statement of the mother of the deceased that her husband was a photographer and used to earn good money.

[11] Accordingly, appeal is allowed by modifying the award dated 08.04.2002 passed by the Tribunal to the extent noted above.

(B.S. WALIA)
JUDGE

January 19, 2018

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