**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No.2801 of 1999
Date of Decision: 29.11.2018.

Dilbagh Singh (deceased) through L.Rs.

...Appellant

Versus

Punjab State and others

....Respondents

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

Present: Mr. Balbir Singh Jaswal, Advocate for the appellant.

Mr. Ayush Sarna, Asstt. Advocate General, Punjab.

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B.S.WALIA, J (Oral).

1. Appeal has been filed by the father of deceased Balbir Singh, who died in a motor vehicular accident on 16.10.1995.

2. The Motor Accidents Claims Tribunal, Amritsar (hereinafter referred to as 'the Tribunal') by taking into account the age of the deceased as 27 years, employment as constable in Border Security Forces (for short 'BSF') and by assessing the income of the deceased as ₹3,000/- per month, by treating the appellant i.e. the father of the deceased dependent on his son, treated the share of the dependency of the appellant as ₹1000/- per month, thereafter by applying multiplier of '5' on the age of the appellant, awarded compensation of ₹60,000/-. The tribunal also imposed a deduction of $1/3^{rd}$ of the income of the deceased towards his personal expenses.

3. Learned counsel for the appellant pointed out that during the pendency of the present appeal, appellant, Dilbagh Singh also died and vide order dated 27.01.2017, legal representatives of deceased appellant, Dilbagh Singh were impleaded for the purposes of present appeal.

4. Learned counsel for the appellant contended that no addition was made on account of future prospects despite entitlement besides it is the age of the deceased which is to be taken into account for applying the multiplier and not the age of the claimant/dependant. Learned counsel further contended that no amount of compensation was awarded under conventional heads.

5. Per contra, learned State counsel reiterated the reasoning adopted by the learned Tribunal while passing the award.

6. I have considered the submissions of learned counsel for the parties. Admittedly, the deceased was engaged on a permanent post in the BSF as a constable. He was 27 years of age at the time of his death on 16.10.1995. As per paragraph No. 61(iv) of the decision in National Insurance Company Ltd. versus Pranay Sethi and others, 2017(4) RCR (Civil) 1009, where the deceased was employed on permanent basis and was below 40 years of age, 50% of the established income, less tax is to be added on account of future prospects. Likewise, as per paragraph No.61(vii) of the decision in Pranay Sethi's case (supra), it is the age of the deceased which is to be made the basis for applying the multiplier.

7. Since, in the instant case, the deceased was engaged in the BSF as Constable against a permanent job and was less than 40 years of age on the date of accident i.e. 16.10.1995, therefore, 50% of the established income of the deceased minus tax component is to be added on account of future prospects while computing compensation.

8. Likewise in view of paragraph No.21 of the decision in Sarla Verma Vs. Delhi Transport Corp. and another, 2009 (3) RCR (Civil) 77,

where deceased was between the age group of 26 to 30 years, multiplier of '17' is applicable.

9. Since, in the instant case, the deceased was 27 years of age, therefore, multiplier of 17 would be applicable in this case.

10. As regard claim for appropriate compensation under conventional heads, as per paragraph No.61 (viii) of the decision in Pranay Sethi's case (supra), compensation of ₹15,000/-, ₹40,000/- and ₹15,000/- respectively is to be awarded on account of loss of estate, loss of consortium and funeral expenses.

11. Admittedly no amount has been awarded on the aforesaid counts. Accordingly, the appellant is held entitled to ₹15,000/- on account of loss of estate, ₹15,000/- on account of funeral expenses besides ₹40,000/- on account of loss of filial consortium.

12. In the circumstances, the appellant/legal heirs are held entitled to the following compensation:-

Sr. No.	**Head**	**Amount assessed by the Tribunal**	**Amount assessed by this Court**
1	Income	₹3000/-	₹3000/-
2	Future Prospects	Nil	₹1500/-(50% of ₹3000)= ₹4500/-
3.	Deduction	2/3rd	2/3rd
4	Net contribution by decease towards appellant	₹1000/-	₹1500/-
5	Multiplier applied	5	17
6	Annual dependency	₹1000x12x5=₹60,000	₹1500x12x17=₹3,06,000/-
7	Loss of Estate	Nil	₹15,000/-
8	Funeral expenses	Nil	₹15,000/-
9.	Loss of consortium	Nil	₹40,000/-

Sr. No.	Head	Amount assessed by the Tribunal	Amount assessed by this Court
	Total	₹60,000/-	₹3,86,000/-

13. Accordingly, as against the compensation of ₹60,000/- awarded by the Tribunal, the appellants i.e. L.Rs. of father of deceased Balbir Singh, are held entitled to award of compensation of ₹3,86,000/- along with interest @ 12% per annum w.e.f. the date of filing of the claim petition till date of payment, less amount if any already paid.

14. Needless to mention, the appellants/legal representatives would get compensation as per their entitlement. However, payment shall be made to them after making deduction of the tax liability, if any, qua future prospects, in accordance with the decision of Hon'ble the Supreme Court in Pranay Sethi's case (supra).

15. Accordingly, appeal is allowed and award dated 20.07.1999, passed by the learned Tribunal is modified to the extent as noted above.

(B.S.WALIA)
JUDGE

29.11.2018
rajesh.k.khurana

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