

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.3701 of 2002

Date of Decision : 19.01.2018

Smt. Saroj & 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] Award dated 8.4.2002 passed by the learned Motor Accidents Claims Tribunal, Panipat (hereinafter referred to as “the Tribunal”) has been challenged on the ground that no amount has been awarded on account of future prospects, loss of estate, loss of consortium besides the compensation awarded towards funeral expenses was less. It was further contended that the dependency had also been wrongly worked out. Besides, as against multiplier of 17, 16 had been wrongly applied despite the fact that the deceased was 30 years of age.

[2] Learned counsel for the respondent-Insurance Company has not disputed the aforementioned factual position.

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

[4] Admittedly, the deceased Des Raj Saini was 30 years of age at the time of death. Monthly income of the deceased was assessed at ₹1500/- per month. Deceased was survived by 7 dependents. No amount of compensation was paid on account of loss of consortium, loss of estate, future prospects, besides only ₹10,000/- was awarded towards funeral expenses.

[5] As per the decision of the Hon'ble Supreme Court in 'National Insurance Company Limited versus Pranay Sethi and others', 2017 (4) RCR (Civil) 1009, where the deceased was self employed and less than 40 years of age, 40% of the income is to be added towards future prospects. Relevant extract of the aforementioned 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 30 years of age and was engaged in a printing press, an addition of 40% as future prospects is to be made in his income. Accordingly, the claimant-appellants are held entitled to addition of 40% of the established income of the deceased less tax component towards future prospects.

[6] As per para No.61(viii) of the decision of the Hon'ble Supreme Court in Pranay Sethi's case (supra), ₹15,000/- is payable on account of loss of estate while widow of the deceased is entitled to ₹40,000/- on account of loss of consortium, besides, compensation of ₹15,000/- towards funeral expenses.

Relevant extract of the aforesaid decision is reproduced hereunder:

“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.”

Accordingly, ₹40,000/- is payable to the widow of the deceased on account of loss of consortium while ₹15,000/- each is payable on account of loss of estate and funeral expenses.

[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 **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 17 is applicable where the deceased was between 26 to 30 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 17 will be applicable while working out compensation payable on account of the deceased being 30 years old at the time of his death.

[8] Admittedly, the deceased left behind 7 dependents. Accordingly in view of paragraph No.61(v) of the decision in **Pranay Sethi's** case (supra) upholding decision in '**Sarla Verma's case** (supra), where number of dependants

of the deceased is more than six, personal expenses of the deceased are to be deducted @ $1/5^{\text{th}}$ of the income of the deceased. Relevant extract of the decision of Hon'ble Supreme Court 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 ($1/3^{\text{rd}}$) where the number of dependent family members is 2 to 3, one-fourth ($1/4^{\text{th}}$) where the number of dependent family members is 4 to 6, and one-fifth ($1/5^{\text{th}}$) 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's case which we have reproduced hereinbefore.”

Accordingly deduction of personal expenses of the deceased shall be made @ $1/5^{\text{th}}$ of his income.

[9] Accordingly, compensation payable on enhancement works out as under :-

Sr. No.	Head	Amount assessed by Tribunal in ₹	Amount assessed by this Court in ₹
1	Income	1500/-	No change
2	Future prospects	NIL	@ 40%=600
3	Total income assessed	1500/-	2100/-
4	Deduction towards personal expenses of deceased.	500/- (1/3 rd)	420/- (1/5 th)
5	Dependency arrived at	1000/-	1680/-
6	Multiplier applied	16	17
7	Compensation awarded	1000 x 12 x 16 = 1,92,000/-	1680 x 12 x 17 = 342720/-
	Loss of consortium	NIL	40,000/-
8	Funeral expenses	10,000	15,000/-
9	Loss of Estate	NIL	15,000/-
	Total	2,02,000/-	4,12,720-

[10] Resultantly, as against the compensation of ₹2,02,200/- awarded to the appellants by the Tribunal, the claimant-appellants would be entitled to ₹4,12,720/- along with interest as was 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.

[11] Accordingly, appeal is allowed by modifying the award dated 8.4.2002 passed by the learned MACT, Panipat to the extent noted above.

(B.S. WALIA)
JUDGE

January 19, 2018
ps

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No