

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

FAO No.3702 of 2002

Date of Decision : 19.01.2018

Smt. Julli & 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 is to award of compensation of ₹3,94,000/- by the Motor Accidents Claims Tribunal, Panipat (hereinafter referred to as “the Tribunal”) on the ground that the Tribunal wrongly applied multiplier of 16 instead of 17, applied incorrect deduction towards personal expenses of the deceased, did not award any amount towards future prospects, besides, did not award appropriate compensation towards loss of estate, loss of consortium and funeral expenses.

2. The Tribunal, vide award dated 08.04.2002, awarded compensation of ₹3,94,000/- to the widow, three minor children, father and mother of deceased Ikram by taking into account that deceased was 30 years old, working as a Carpenter and earning ₹3,000/- per month and by applying cut of 1/3rd to income of the deceased towards his personal expenses and multiplier of 16.

3. Learned counsel for the respondents has not disputed the factual position.
4. I have considered the submissions of learned counsel for the parties.
5. 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.

6. It also needs noticing that the father of the deceased is not entitled to compensation as dependant. Accordingly total dependants of deceased work out to five. Regarding plea that deduction of 1/3rd of income of the deceased towards personal expenses was incorrectly made and the deduction should have been made @ 1/4th of the income of the deceased it needs noticing that as per paragraph No. 61(v) of the decision of the Hon'ble Supreme Court in **National Insurance**

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upholding decision in '**Sarla Verma vs Delhi Transport Corporation**', 2009 ACJ 1298, where number of dependents of the deceased is between 4 to 6, personal expenses of the deceased are to be deducted @ $1/4^{\text{th}}$ of the income of the deceased. 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 ($1/3^{\text{rd}}$) 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 which we have reproduced hereinbefore.

Accordingly, deduction of personal expenses of the deceased shall be made @ 1/4th of the income of the deceased while working out the compensation payable.

7. As regards the plea for grant of Future Prospects, it needs noticing that as per paragraph No.61 (iv) of the decision in **Pranay Sethi's** case (supra), in case the deceased was self-employed and less than 40 years of age, addition of 40% of the established income is to be made to the income of the deceased towards future prospects, minus the tax component. Paragraph No.61 (iv) of the decision in **Pranay Sethi's** case (supra) 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.”

[8] Since the deceased was 30 years of age and self employed as a carpenter, an addition of 40% of the established income is to be made towards future prospects minus the tax component.

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

In the light of the position as noted above, the deceased’s wife will be entitled to ₹40,000/- on account of loss of consortium while the claimants would be entitled to a sum of ₹15,000/- on account of loss of estate and ₹15,000/- towards funeral expenses.

[10] In view 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	₹3000/-	No change
2	Future prospects	NIL	@ 40%= ₹1200
3	Total income assessed	₹3000/-	₹4200/-
5	Deduction towards personal expenses of deceased.	1000/- (1/3 rd)	1050/- (1/4 th)
4	Dependency arrived at	₹2000/-	₹3150/-
6	Multiplier applied	16	17
7	Compensation awarded	₹2000 x 12 x 16 = ₹3,84,000/-	₹3150 x 12 x 17 = ₹6,42,600/-
8	Loss of consortium	Consolidated amount ₹10,000/- on account of claim at serial number 7-9	₹40,000/-
9	Funeral expenses	Consolidated amount ₹10,000/- on account of claim at serial number 7-9	₹15,000/-
	Loss of Estate	Consolidated amount ₹10,000/- on account of claim at serial number 7-9	₹15,000/-
	Total	₹3,94,000/-	₹7,12,600/-

[11] Resultantly, as against the compensation of ₹3,94,000/- awarded to the claimants by the Tribunal, the claimants, excluding father of the deceased, would

be entitled to ₹7,12,600/- to be paid proportionately to the appellants and other claimants 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.

[12] Accordingly, appeal is allowed by modifying the award dated 08.04.2002 passed by the learned MACT, Panipat 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