

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

581

Date of Decision : 29.10.2018

FAO No.1272 of 2007 (O&M)

Malkiat Kaur and others

..... Appellants

Versus

Jeet Singh and others

..... Respondents

FAO No.1273 of 2007 (O&M)

Sukhpal Kaur and others

..... Appellants

Versus

Jeet Singh and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. S.S.Sidhu, Advocate
for the appellants.

Mr. Aman Sharma, Advocate
for respondents No.2 & 3-PRTC.

AJAY TEWARI, J. (Oral)

This order shall dispose of above mentioned two appeals.

FAO NO.1272 of 2007

This is an appeal for enhancement of compensation and for
modifying the award dated 19.07.2005 passed by the Motor Accident

Claims Tribunal, Bathinda granting compensation of Rs.2,65,500/- alongwith interest @ 6% per annum in favour of the appellants and against the respondents.

Since a very limited point has been raised further detailed reference to the facts is not necessary.

Learned counsel for the appellants has argued that the tribunal erred in computing the income of the deceased at Rs.6,000/- per killa (thereby totaling to Rs.48,000/- per annum from 8 killas of agricultural land). As per him since the deceased owned 8-9 acres of land and was managing the same his income should have been taken on the basis that he was a skilled labourer and in the year 2004 the monthly wages of a skilled labourer were Rs.3,300/- per month. Counsel for respondents No.2 & 3-PRTC is not in a position to deny this. In the circumstances, the income of the deceased is taken at Rs.3,300/- per month. 1/3rd is to be deducted for the personal expenses.

Further counsel for the appellants has argued that in view of the judgment passed in *National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009*, 30% has to be awarded on account of future prospects since the age of the deceased was 50 years. On the other hand counsel for respondents No.2 & 3-PRTC has argued that the future prospects of 30% have to be granted only where the deceased is in a permanent job. He states that as per the said judgment the future prospects for 50 years old person who is self employed person is 25%. I find this to be indeed so and it is held that 25% has to be awarded towards future prospects.

Counsel for the appellants states that in view of the judgment of the Supreme Court in the matter of *Sarla Verma and others v. Delhi Transport Corporation and another*, 2009 ACJ 1298 the multiplier of 13 had to be applied instead of 8. Counsel for respondents No.2 & 3-PRTC is not in a position to deny this also. It is held that multiplier of 13 has to be applied instead of 8.

Counsel for the appellants states that under the conventional heads only Rs.9,500/- has been awarded. In view of the judgment passed in *Pranay Sethi supra*, I award a sum of Rs.60,500/- more under this head.

FAO No.1273 of 2007

This is an appeal for enhancement of compensation and for modifying the award dated 19.07.2005 passed by the Motor Accident Claims Tribunal, Bathinda granting compensation of Rs.3,29,500/- alongwith interest @ 6% per annum in favour of the appellants and against the respondents.

Since a very limited point has been raised further detailed reference to the facts is not necessary.

Counsel for the appellants states that the income of the deceased had to be taken at Rs.3,500/- per month. I find this to be indeed so. Consequently, the income of the deceased is taken at Rs.3,500/- per month.

Counsel for the appellants has argued that in view of the judgment passed in *Pranay Sethi supra*, 40% had to be awarded on account of future prospects. I find this to be indeed so. It is held that 40%

has to be awarded towards future prospects.

Counsel for the appellants states that in view of the judgment of the Supreme Court in the matter of ***Sarla Verma supra*** the multiplier of 17 had to be applied instead of 16. Counsel for respondents No.2 & 3- PRTC is not in a position to deny this also. It is held that multiplier of 17 has to be applied instead of 16.

Counsel for the appellants states that under the conventional heads only Rs.9,500/- has been awarded. In view of the judgment passed in ***Pranay Sethi supra***, I award a sum of Rs.60,500/- more under this head.

Further counsel for the appellants states that as per the judgment passed in ***Magma General Insurance Company Ltd., Vs. Nanu Ram @ Chuhru Ram & ors., Civil Appeal No.9581 of 2018 arising out of SLP (Civil) No.3192 of 2018 decided on 18.09.2018***, filial consortium @ Rs.40,000/- each had to be awarded to minor son and mother. I award Rs.30,000/- for loss of estate & funeral charges and I award Rs.40,000/- each to appellants No.1, 2 and 3 on account of consortium and filial consortium. It is further held that the sum of Rs.9,500/- would be deducted from the same.

Counsel for the appellants states that in both cases interest @6% per annum has been awarded whereas in ***Magma General Insurance Company Ltd. supra***, the Supreme Court had awarded interest @12% per annum. In the circumstances, in both cases the entire compensation would carry interest @12% per annum.

Appeals are allowed in the above terms and the award is modified accordingly.

Since the main cases have been decided, the pending civil miscellaneous applications, if any, also stand disposed of.

29.10.2018
pooja sharma-I

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No