352

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.793 of 2006 (O&M)
Date of Decision : 18.04.2018

Neelam Rani and others ... Petitioners

versus

Kamaljit Singh and others .... Respondents

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

Present: Mr. Arvind Mittal, Advocate for the appellants.
Mr. S.P. Garg, Advocate for respondents No.1 and 2.
None for respondents No.3 and 4.

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B.S.WALIA, J.

Appeal has been filed by the claimants, widow and two minor sons of deceased Iqbal Singh, who died in an accident on 10.09.2004 at the age of 42 years (date of birth 18.11.1962) while working as lineman in Punjab State Electricity Board (hereinafter referred to as 'PSEB') on a monthly salary of ₹9294/-. It needs mention here that the parents of the deceased were respondent Nos.4 and 5 in the claim petition and are performa respondent Nos.3 and 4 in the instant appeal.

2. The Motor Accidents Claims Tribunal, Ludhiana (hereinafter referred to as 'Tribunal'), while taking into account the age of the deceased as 42 years, income as ₹9000/- per month, dependents as 'five' and by imposing deduction of 1/3 and by applying multiplier of 12, awarded compensation of ₹8,64,000/ along with interest at the rate of 6% per annum to be shared as per details given as under:-

> Appellants No.1 to 3 were awarded a sum of ₹3,00,000/-, ₹2,00,000/- and ₹2,00,000/- respectively while respondents No.3 and 4, herein, were awarded a sum of ₹82,000/- each.

3. Grievance of the claimants is that the Tribunal erred in rounding of the income of the deceased to ₹9,000/- per month as against the admitted monthly income of ₹9294/-, secondly in making deduction of personal expenses at the rate of 1/3 as against the requirement to make deduction at the rate of 1/4 in terms of decision of Hon''ble the Supreme Court in Sarla Verma and others versus Delhi Transport Corporation and another 2009(6) SCC, 121, wherein it has been laid down that in case of four to six dependents, the deduction of personal expenses of deceased is to be made @ 1/4. Relevant extract of the decision of Hon'ble the Supreme Court in Sarla Verma's case (supra) is reproduced as under:-

> 14. Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in Trilok Chandra, the general practice is to apply standardized deductions. Having considered several subsequent decisions of this 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 dependant family members is 4 to 6, and one-fifth (1/5th) where the number of dependant family members exceed six.

4. Thirdly, no amount was awarded on account of loss of consortium, loss of estate and towards funeral expenses. Fourthly, no amount had been awarded on account of future prospectus and as against the requirement to apply multiplier of 14 on account of age of deceased being 42 years, in terms of para No.42 of the decision of Hon'ble the Supreme Court in Sarla Verma's case (supra), multiplier of 12 was wrongly applied.

5. Learned counsel for Pepsu Road Transport Corporation has not disputed the aforementioned factual position.

6. I have heard the submissions of learned counsel for the parties. Admittedly the deceased was 42 years of age on the date of accident and was earning monthly salary of ₹9294/-, besides had five family members dependent upon him. As per para No.42 of the decision of Hon'ble the Supreme Court in Sarla Verma's case (supra), multiplier of 14 is to be applied, where the deceased was between the age of 41 to 45 years of age. Paragraph No.42 of the decision of Hon'ble the Supreme Court in Sarla Verma's case (supra) as also paragraph No.61 (vi) of the decision of Hon'ble the Supreme Court in National Insurance Company Ltd. versus Pranay Sethi and others, 2017(4) RCR (Civil) 2009, are 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."
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> 61 (vi) The selection of multiplier shall be as indicated in the Table in Sarla Verma read with paragraph 42 of that judgment.

7. Secondly, as per paragraph No.61(v) of the decision of Pranay Sethi's case (supra), deduction towards personal and living expenses is to be as per paragraph Nos.30 to 32 of the decision of Sarla Verma's case

(supra). Relevant paragraph No.30 of the decision in Sarla Verma's case (supra) is reproduced as under:-

> "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 Chandra 4, the general practice is to apply standardised deductions. Having considered several subsequent decisions of this 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.

Since, there were five dependents of the deceased, the deduction was to be made at the rate of 1/4 and not 1/3.

8. No amount has been awarded on account of loss of consortium, loss of estate and funeral expenses, whereas as per paragraph No.61(viii) of the decision in Pranay Sethi's case (supra), a sum of ₹15,000/-, ₹40,000/- and ₹15,000/- is to be awarded on account of loss of estate, loss of consortium and funeral expenses respectively. Paragraph No.61(viii) of the decision of Hon'ble the Supreme Court 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 ₹15,000/-, ₹40,000/- and ₹15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years."

9. No amount has been awarded on account of loss of future prospects. Although in terms of paragraph No.61(iii) of the decision of Hon'ble the Supreme Court in Pranay Sethi's case (supra), where the deceased had a permanent job and was between the age of 40 to 50 years, 30% of actual salary of the income of the deceased minus tax was to be added towards future prospects, whereas no part of the salary has been added to the income of the deceased towards future prospects. Paragraph No.61 (iii) of the decision in Pranay Sethi's case (supra) is reproduced as under:-

> (iii) While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.

10. The deceased was admittedly working as lineman in 'PSEB' and as per Ex.A-7, gross monthly salary of the deceased was ₹9294/- and the same has been rounded off by the learned Tribunal as ₹9000/-. In my view, the same ought to have been rounded off to ₹9300/- per month.

11. Accordingly, as against the compensation of ₹8,64,000/-, awarded by the learned Tribunal, the following compensation shall be payable to the appellants and respondent Nos.3 and 4, herein:-

Sr. No.	**Heads**	**Amount assessed by the Tribunal.**	**Amount assessed by this Court.**
1.	Income	₹9000/-	₹9300
2.	Deduction	1/3	¼
3.	Multiplier	12	14
4.	Dependency	6000x12x12+8,64,000	

5.	Future Prospects	Nil	30% 9300x30/100=12090-1/4=3022 12090-3022=9068 9068x12x14=15,23,424
6.	Loss of Estate	Nil	₹15000/-
7.	Loss of consortium	Nil	₹40000/-
8.	Funeral Expenses	Nil	₹15,000/-
9.	Total	₹/-8,64,000/-	₹/-15,93,424/-

12. Accordingly, as against the sum of ₹8,64,000/-, awarded as compensation by the learned Tribunal along with interest at the rate of 6% per annum to the claimants and respondents No.3 and 4 herein, the compensation is enhanced to ₹15,93,424/- along with interest @ 6% per annum w.e.f. the date of application instead of award till the date of payment, less payment, if any, made earlier.

13. Out of this amount of ₹15,93,424/-, appellant No.1 i.e. widow of the deceased would first be paid a sum of ₹40,000/- and thereafter the remaining amount would be divided amongst the appellants and respondent Nos.3 and 4, herein, in the ratio as determined by the learned Tribunal in paragraph 30 of its award. Payment be made as per enhancement within a period of three months, failing which, the same would carry interest at the rate of 7.5% per annum.

14. Appeal allowed as above.

(B.S.WALIA)
JUDGE

18.04.2018
rajesh.k.khurana

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