IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.489 of 2008
Date of Decision : 20.04.2018

Nirupma Rattan & ors. ....**Appellants**

VERSUS

Amrik Singh & ors. ...**Respondents**

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

Present: Mr. Gaurav Sharma, Advocate for the appellants.

Mr. V.K. Garg, Advocate for respondent No.3-Insurance Company.

B.S. WALIA, JUDGE (ORAL).,

1. Appeal has been filed by the mother, father and unmarried sister of Nitesh Sharma who died in an accident on 25.10.2006. By taking into account age of the deceased as 25 years, qualification as Graduation and employment as accountant in a private firm, income at ₹7500/- per month and by making deduction of $1/3^{rd}$ of the income of the deceased, compensation of ₹4 lakhs was awarded by the Tribunal including a sum of ₹10,000/- on account of loss of estate and funeral expenses.

2. The Tribunal took the age of the parents of the deceased into account for applying the multiplier as also the fact that appellant No.3 is unmarried sister of the deceased who was likely to get married in a few years. Besides, the deceased was also unmarried and would have got married and spent more money on a family to be raised by him.

3. In the aforementioned background, the Tribunal applied multiplier of 9 and awarded compensation worked out in two blocks, in a block of first four years where deceased's sister i.e. appellant No.3 was treated as dependent upon the deceased and the deceased being unmarried was taken as rendering more

financial assistance to his parents.

4. In the first block of 4 years, 1/3rd of deceased's salary was deducted as personal expenses and annual dependency was worked out at ₹60,000/- and compensation payable at ₹5,000x12x4=₹2,40,000/-. The second block was for a period of 5 years in which it was taken that in all probability, deceased would have got married and raised his own family, thereby dependency of appellant Nos.1 and 2 was taken as 1/3rd of the total income of the deceased and compensation payable worked out at ₹7500-5000=2500x12x5=₹1,50,000. Accordingly, the dependency of the claimants was worked out at ₹3,90,000/- plus ₹10,000/- on account of loss of estate, funeral expenses, loss of love and affection etc, total ₹4,00,000/- alongwith interest @ 6% per annum from the date of institution of the claim petition till realization of the amount awarded with a rider that in case the awarded amount was not paid within a period of three months from the date of award, the claimants would be entitled to interest @ 9% per annum from the date of award. It was further ordered that out of the awarded amount, claimant/appellant Nos.1 and 2 would be entitled to ₹1,50,000/- while claimant No.3 would be entitled to ₹1,00,000/-. Counsel fee was assessed at ₹500/-.

5. Prayer in the appeal is for enhancement of compensation awarded on the ground that as per decision of Hon'ble the Supreme Court in **National Insurance Company Limited vs. Pranay Sethi and others-2017(4) RCR (Civil) 1009,** age of the deceased is to be taken into account for applying the multiplier. Likewise, deduction is to be made in terms of the law laid down in **'Sarla Verma vs. Delhi Transport Corporation', 2009 ACJ 1298,** which stipulates that if the deceased is survived by parents and siblings, only the mother would be considered as dependent and 50% would be treated as personal living expenses of the bachelor and 50% as contribution towards the family.

6. Accordingly, only the mother of the deceased would be considered as

dependant and 50% of income of the deceased would be considered as his personal expenses and compensation worked out accordingly.

7. Learned counsel further contended that no amount had been awarded on account of loss of future prospects and in view of the decision of Hon'ble the Supreme Court in **Pranay Sethi's** case (supra), an addition of 40% of the established income was to be added for working out future prospects. Learned counsel also contended that the compensation awarded on account of conventional heads was also on the lower side and ought to be awarded in terms of aforesaid decision of Hon'ble the Supreme Court.

8. Learned counsel for the respondent fairly does not dispute the aforementioned factual or legal position.

9 I have considered the submissions of learned counsel for the parties.

10. As per paragraph 61(iv) to 61(viii) of the decision of Hon'ble the Supreme Court in **Pranay Sethi's** case (supra), where the deceased was self-employed or on a fixed salary, addition of 40% of the established income is to be made, where deceased was less than 40 years of age. For deduction of personal living expenses, guidance is to be taken from the decision of Hon'ble the Supreme Court in **Sarla Verma's** case(supra) as referred to in **Pranay Sethi's** case (supra). Likewise, in the case of selection of multiplier, it is the age of the deceased which is to be the basis for applying multiplier and deduction to be made in case of the deceased being bachelor is to be as per paragraph No.39 of the decision in **Pranay Sethi's** case (supra). Besides, compensation on account of conventional heads is to be paid @ ₹15,000/- on account of loss of consortium and funeral expenses each.

11. Paragraph Nos.61(iv) to 61(viii) and 39 (31) (32) 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."

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.

(vi) The selection of multiplier shall be as indicated in the Table in Sarla Verma read with paragraph 42 of that judgment.

(vii) The age of the deceased should be the basis for applying the multiplier.

(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."

39(31). Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent(s) and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependant and the mother alone will be considered as a dependant. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependants, because they will either be independent and earning, or married, or be dependent on the father.

32. Thus even if the deceased is survived by parents and siblings, only the mother would be considered to be a dependant, and 50% would be treated as the personal and living expenses of the bachelor and 50% as the contribution to the family. However, where the family of the bachelor is large and dependent on the income of the deceased, as in a case where he has a widowed mother and large number of younger non- earning sisters or brothers, his personal and living *expenses may be restricted to one-third and contribution to the family will be taken as two-third."*

12. Likewise paragraph No.42 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."*

13. Accordingly, in the light of the position as noted above, the award is liable to be modified and the compensation awarded is liable to be enhanced as per details as under:

Sr. No.	Head	Amount assessed by Tribunal in ₹	Amount assessed by this Court in ₹
1	Income	**7500/-**	**7500/-**
2	Future prospects	**NIL**	**@ 40%= 3000**
3	Total income assessed	**7500/-**	**7500+3000=10,500/-**
4	Deduction towards personal expenses of deceased.	**7500 - 1/3rd =5000/- For 1st block of 4 yrs 7500 - 2/3rd = 2500/- For 2nd block of 5 years**	**10,500-1/2=5250/-**
5	Multiplier applied	**9**	**17**
6	Compensation awarded	**5000x12x4 = 2,40,000/- 2500x12x5=1,50,000/- Total=3,90,000/-**	**5250x12x17 = 10,71,000/-**
7	(i)Loss of Estate (ii)Funeral expenses (iii)Loss of love and affection	**10,000/- (in total)**	**(i)15,000/- (ii)15,000/- (iii) -**
	Total	**4,00,000/-**	**11,01,000/-**

14. Resultantly, as against the compensation of ₹4,00,000/- awarded to the claimants by the MACT, Barnala, appellant No.1 only would be entitled to

award of compensation of ₹11,01,000/- along with interest @ 6% per annum with effect from the date of the claim petition till realisation of the amount, less payment, if any, already made. It is made clear that the compensation as per enhancement be made within a period of 3 months from today failing which the same shall be payable along with interest @ 7.5% per annum with effect from the date of claim petition till the date of payment.

15. Accordingly, the appeal is allowed and award dated 5.10.2007 passed by the learned MACT, Barnala is modified to the extent as noted above.

(B.S. WALIA)
JUDGE

April 20, 2018
Ps

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No