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

FAO No.5197 of 2008 (O&M)
Date of Decision : 21.04.2018

Phool Kala Devi and others

... Petitioners

versus

State of Haryana and others

.... Respondents

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

Present: Mr. Ashwani Arora, Advocate for the appellants.

Mr. Samarth Sagar, Addl. AG, Haryana.

Mr. R.N. Singal, Advocate
for respondent No.4.

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B.S.WALIA, J.

1. Appeal has been filed by the widow and two daughters of deceased challenging award of only ₹12,43,000/- (₹12,33,000/- on account of dependency besides ₹5,000/- each towards loss of consortium and funeral expenses, total ₹12,43,000/-) as compensation along with interest @ 8% per annum from the date of claim petition, till the date of payment by the Motor Accident Claims Tribunals, Chandigarh (hereinafter referred to as the Tribunal) on account of the death of Ram Dev, aged 46 years in an accident on 29.08.2005.

2. The deceased was employed as White-Washer on monthly salary of ₹11845/- per month on regular basis in the Capital Project Engineering Department, CPW-3, Sector-16, Chandigarh. Prayer is for enhancement of compensation awarded by the Tribunal on account of conventional heads in

terms of decision of Hon'ble the Supreme Court in National Insurance Company Ltd. versus Pranay Sethi and others, 2017(4) RCR (Civil) 2009 as well for grant of future prospectus. Learned counsel for the respondent-Insurance Company, has fairly conceded the factual position. However, prayer is that the interest awarded by the Tribunal is somewhat on the higher side and needs to be scaled down so as to bring it at par with the rate of interest payable during the relevant period.

3. I have considered the submissions of learned counsel for the parties and am of the view, that for the reasons recorded hereunder, claim for enhancement of compensation on account of conventional heads as well as for grant of future prospectus besides for scaling down the interest awarded is liable to be allowed.

4. As per paragraph No. 61(iii) of the decision in Pranay Sethi's case (supra), where the deceased was employed on permanent basis and was more than 40 but less than 50 years of age, 30% of the established income, less tax is to be taken into account for the purpose of working out future prospects payable. Likewise, as per paragraph No.61(viii) of the decision in Pranay Sethi's case (supra), compensation of ₹15,000/- each towards loss of estate and funeral expenses and a sum of ₹40,000/- towards loss of consortium is to be awarded. Relevant extract of the decision of Hon'ble the Supreme Court in Pranay Sethi's case (supra) is reproduced as under:-

> 61(iii) While determining the income, an additional of 50% of actual salary of 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.
>
> 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."

5. As regards the submission of learned counsel for the respondent-insurance company for scaling down the interest, I am of the view that if interest is paid @ 7.5% per annum instead of 8% per annum, the same would meet the ends of justice. Accordingly, the compensation payable works out as under :-

Sr. No.	**Heads**	**Amount assessed by the Tribunal.**	**Amount assessed by this Court.**
1.	Income	₹11854/-	No change
2.	Future Prospectus	Nil	30% i.e. ₹3556= ₹15410
3.	Deduction	1/3 of 11854=3951	1/3 of 15410=5137
4.	Dependency @ 2/3	₹7903	₹10,273
5.	Multiplier	'13'	'13'
6.	Loss of consortium	₹5000/-	₹40,000/-
7.	Loss of Estate	Nil	₹15,000/-
8.	Funeral expenses	₹5,000/-	₹15000/-
	Total	₹12,42,862/-	₹16,72,588
	Interest	8% per annum	7.5% per annum

6. Accordingly, in view of position as noted above, as against the compensation of ₹12,42,862/- awarded to the appellants along with interest @ 8% per annum, the appellants would now be entitled to award of

compensation of ₹16,72,588/- along with interest @ 7.5% per annum w.e.f. the date of claim petition till the date of payment, less amount, if any already paid. The ratio of award of compensation as worked out by the Tribunal shall be maintained, after making payment of ₹40,000/- on account of loss of consortium to the widow of the deceased and the balance amount will be paid in the ratio of 50%, 25% and 25% to the appellants. Insurance Company would make the payment towards future prospects after deducting the tax component in respect thereto in accordance with the decision of Hon'ble the Supreme Court in Pranay Sethi's case (supra).

7. Appeal is allowed and award is modified in aforementioned terms.

(B.S.WALIA)
JUDGE

21.04.2018
rajesh.k.khurana

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