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

FAO No.1549 of 2010 (O&M)
Date of Decision: 08.08.2018

Harwinder Kaur and others

...Petitioners

Versus

Jasvir Singh and others

....Respondents

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

Present: Mr. Akshay Sandhir, Advocate
for the appellants.

None for respondent No.1.

Mr. Karan Singla, Advocate
for the respondent Nos.2 and 3.

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B.S.WALIA, J (Oral).

CM-7800-CII-2010

For the reasons mentioned in the application, the same is allowed. Delay of 3 days' in late filing of the appeal is condoned, subject to all just exceptions.

CM-7801-CII-2010

For the reasons mentioned in the application, the same is allowed. Delay of 57 days' in re-filing of the appeal is condoned, subject to all just exceptions.

FAO-1549 of 2010 (O&M)

1. Claim in appeal is for enhancement of compensation awarded by the learned Motor Accidents Claims Tribunal, Mansa (hereinafter

referred to as ‘the Tribunal’) on account of death of Malkiat Singh in a motor vehicular accident on 17.06.2008. The Tribunal by taking into account salary of the deceased at ₹12,124/- per month, eight dependants, by applying multiplier of ‘12’ and making a cut of 1/3rd of the income of the deceased towards his personal expenses, awarded a lump sum compensation of ₹11,63,904/-.

2. Prayer for enhancement of compensation on behalf of the widow, six children and father of the deceased is on the ground that the income of the deceased was wrongly taken at ₹12,124/- as against pay of ₹13,751/- per month required to have been taken into account. Secondly, as against requirement of applying multiplier of ‘14’ multiplier of ‘12’ was wrongly applied. Thirdly, deduction towards personal expenses of the deceased was wrongly made @ 1/3rd whereas it ought to have been made @ 1/5th of the income of the deceased. Moreover, the appellants were not awarded any compensation on account of conventional heads whereas the same ought to have been @ ₹15,000/-, ₹40,000/- & ₹15,000/- for loss of estate, loss of consortium and funeral expenses respectively. Besides no amount was awarded on account of future prospects.

3. Learned counsel for the appellants contended that no doubt the deceased was getting salary of ₹12,124/- as on date of accident but as is evident from Ex.PW3/A i.e. salary certificate tendered by Bahal Singh, official, Punjab Police, the deceased was entitled to monthly salary of ₹13,751/- on account of revision of pay scales in the year 2009 w.e.f. 01.01.2006.

4. Learned counsel for the respondent has not disputed the aforementioned factual position.

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

6. Admittedly, the deceased was drawing ₹12,124/- as pay on date of accident. However, the same was enhanced in the year 2009 to ₹13,751/- w.e.f. 01.01.2006 as evident from Ex.PW3/A i.e. salary certificate tendered by Bahal Singh, official of Punjab Police. Accordingly, it is pay of ₹13,751/- which is to be taken into account as the established income of the deceased for the purpose of working out compensation payable.

7. Secondly, as per paragraph No.21 of the decision in <u>Sarla Verma Vs. Delhi Transport Co-op. and another, 2009 (3) RCR (Civil) 77,</u> in case of deceased being between 41 to 45 years of age, multiplier of '14' is applicable and not '12'. Relevant extract of the decision in Sarla Verma's case (supra) is reproduced as under :-

> "21. 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."

Since in the instant case the deceased was 44 years old, therefore multiplier of 14 will be applicable.

8. Likewise as per paragraph No. 14 of the decision in Sarla Verma's case (supra) where the number of dependants is more than 6, deduction is to be made @ $1/5^{th}$ of the personal expenses of the deceased. Relevant extract of the decision 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 standardised deductions. Having considered several subsequent decisions of this(2003) 3 SLR (R) 601 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 in the instant case the deceased left behind more than six dependants, therefore, $1/5^{th}$ of the income of the deceased will be deducted towards his personal expenses.

9. As per paragraph No.61 (iii) of the decision of Hon'ble the Supreme Court in National Insurance Company Ltd. versus Pranay Sethi

<u>and others, 2017 (4) RCR (Civil) 2009,</u> where the deceased had a permanent job and was between the age of 40 to 50 years then an addition of 30% of the actual salary of the deceased, less tax component is to be made for computing future prospects. Relevant extract of Pranay Sethi's case (supra) is reproduced as under :-

> "61(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."

Since in the instant case the deceased was on a permanent job and was between the age of 41 to 50 years, addition of 30% of the actual salary of the deceased less tax component is to be made for computing future prospects.

10. Likewise, as per paragraph No. 61 (viii) of the decision in Pranay Sethi's case (supra) ₹15,000/-, ₹40,000/- and ₹15,000/- is to be awarded on account of loss of estate, loss of consortium and funeral expenses respectively. Relevant extract 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 ₹15,000/-, ₹40,000/- and ₹15,000/- respectively. The aforesaid

amounts should be enhanced at the rate of 10% in every three years.”

Accordingly, the appellants are held entitled to award of ₹15,000/-, ₹40,000/- and ₹15,000/- on account of loss of estate, loss of consortium and funeral expenses respectively.

11. In the circumstances, the compensation payable to the appellants/claimants is as under :

Sr. No.	**Head**	**Amount assessed by the Tribunal**	**Amount assessed by this Court**
1	Income	₹12124/-	₹13751/-
2	Future Prospects	Nil	(30% of 13751)= ₹4125
3	Total Income assessed	₹12124/-	(13751 + 4125) = ₹17876/-
4	Multiplier applied	12	14
5	Deduction (towards personal expenses of the deceased)	$1/3^{rd}$	$1/5^{th}$
6	Dependency	$1/3^{rd}$ of 12124 = 4041.33 8082.67 x 12 x 12 = ₹11,63,904/-	$1/5^{th}$ of 17876 = 3575 14300 x 12 x 14 = ₹24,02,400/-
7.	Compensation awarded	₹11,63,904/-	₹24,02,400/-
8.	Loss of Consortium	Nil	40,000
9.	Loss of estate	Nil	15,000
10.	Funeral Expenses	Nil	15,000
11.	Interest	8%	8%
	Total	₹11,63,904/-	₹24,72,400/-

12. Accordingly, as against the compensation of ₹11,63,904/- awarded by the Tribunal, the appellants/claimants are held entitled to award of compensation of ₹24,72,400/- along with interest @ 8% w.e.f. the date of filing of the claim petition till payment, less amount if any already paid.

13. Needless to mention, the appellants are held entitled to the award of compensation in proportion to their shares determined by the Tribunal after first making payment of ₹40,000/- towards loss of consortium to the widow of the deceased. The respondent i.e. Pepsu Road Transport Corporation, Patiala shall make payment to the appellants after making deduction of the tax liability qua future prospects in accordance with the decision in Pranay Sethi's case (supra).

14. Accordingly, appeal is allowed by modifying the award to the extent as noted above.

(B.S.WALIA)
JUDGE

08.08.2018
sandeep/rajesh.k.khurana

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