IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.6311 of 2010
Date of Order: 23.08.2018

Ritu Sodhi and Ors.

....Appellants

Versus

Dharamvir and Others

....Respondents

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

Present: Mr. Sudhir Pruthi, Advocate for the appellants.
None for respondent No.1.
Mr. Om Pal Sharma, Advocate for respondent Nos.2 & 3.
Mr. Ashwani Talwar, Advocate for respondent No.4.

None for respondent No.5.

B.S.WALIA, J (ORAL)

[1] Appeal has been filed by the widow and two sons of Mohinder Pal Singh Sodhi, who died in a motor vehicular accident on 11.6.2007, praying for enhancement of compensation of ₹15,46,000/- awarded to the appellants and mother of the deceased by the learned Motor Accidents Claims Tribunal, Panchkula (for brevity "the Tribunal").

[2] Learned counsel for the appellants/claimants contended that the learned Tribunal took into account the income of the deceased as ₹13000/- per month, imposed a cut of ₹5000/- towards personal expenses and by applying multiplier of 16 worked out annual dependency at ₹96,000/-. Thereafter by awarding a sum of ₹5000/- each on account of loss of consortium and funeral expenses total ₹15,46,000/- was awarded as compensation to the appellants as also the mother of the deceased

whereas deduction, in view of four dependents, was to be made @ 1/4th of the income of the deceased besides awarding future prospects. Lastly, it was contended that the compensation on account of conventional heads was to be awarded @ ₹15,000/- for loss of estate and funeral expenses each besides a sum of ₹40,000/- on account of loss of consortium.

[3] On the other hand, learned counsel for the respondents contended that multiplier of 15 was applicable instead of 16. No other point has been argued.

[4] I have considered the submissions of learned counsel for the parties and am of the view that in the light of decision of Hon'ble the Supreme Court in **Sarla Verma vs. Delhi Transport Corporation, 2009 ACJ 1298** and **National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009,** the appeal is liable to be accepted and compensation payable enhanced.

[5] Admittedly, the deceased was 39 years of age. He left behind four dependents i.e mother besides wife and then two minor sons. Accordingly, as per paragraph 61(v) of the decision in **Pranay Sethi's case (supra)** upholding decision in **Sarla Verma's case (supra)**, where number of dependents of the deceased is between 4 to 6, personal expenses of the deceased are to be deducted @ 1/4th of the income of the deceased. Relevant extract of the decision in **Pranay Sethi's case (supra)** as well as **Sarla Verma's case (supra)** are reproduced as under:

> "Paragraph No.61(v) of the decision in **Pranay Sethi's case (supra)**
>
> *"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."

Paragraph No.30 of the decision in Sarla Verma's case (supra)

"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, the general practice is to apply standardised deductions. Having considered several subsequent decisions of this **(2003) 3 SLR (R) 601 31** 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."

Accordingly, since the deceased died leaving behind four dependents, deduction of personal expenses of the deceased shall be made @ 1/4th of the income of the deceased instead of ₹5000/- .

[6] No amount was awarded towards future prospects whereas in the light of paragraph No.61(iv) of the decision in **Pranay Sethi's case (supra)**, in case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income minus the tax component is the warrant where the deceased was below the age of 40 years. Paragraph No.61 (iv) of the decision in **Pranay Sethi's case (supra)** is reproduced hereinbelow:

" *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."*

Since in the instant case, the deceased was 39 years of age and was self employed, therefore, 40% of the income of the deceased minus the tax component has to be taken into account for the purpose of computing future prospects.

[7] As regards the conventional heads payable, learned Tribunal awarded a sum of ₹5000/- each on account of loss of consortium and funeral expenses whereas in terms of the decision in **Pranay Sethi's case (supra),** a sum of Rs.15,000/- each is payable towards loss of estate and funeral expenses while ₹40,000/- is payable on account of loss of consortium. Paragraph No.61 (viii) of the said judgment is reproduced hereinbelow:

> *(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.*

Accordingly, the appellants are awarded compensation in respect of the conventional heads in the light of decision in **Pranay Sethi's case (supra)** as noticed above**.**

[8) Regarding wrong multiplier of 16 having been applied by the Tribunal, it needs noticing that in view of paragraph No.42 of the decision of Hon'ble the Supreme Court in **Sarla Verma's case (supra)** as upheld in **Pranay Sethi's case (supra)**, where the deceased was between 36 to 40 years old, multiplier of 15 is applicable. Relevant extract 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."*

Thus, multiplier of 15 will be applicable while working out compensation payable on account of the deceased being 39 years old at the time of his death.

[9] In view of the position as noted above, compensation payable works out as under :-

Sr. No.	***Heads***	***Amount assessed by the Tribunal***	***Amount assessed by this Court***
1	Income	₹13000/-	₹13000/-
2	Future Prospects	NIL	40 % of ₹13000 = ₹5200/-
3	Total income assessed	₹13000/-	(₹13000 + ₹5200) = ₹18200/-
4	Deduction towards dependency	(₹5000) ₹13000-₹5000=₹8000	1/4th of ₹18200= ₹4550/- ₹18200-₹4550= ₹13650/-

Sr. No.	*Heads*	*Amount assessed by the Tribunal*	*Amount assessed by this Court*
5	Multiplier applied	16	15
6	Multiplicand	₹8000 x 12 = ₹96,000/-	₹13650 x 12 =₹1,63,800/-
7	Dependency	₹96000 x 16= ₹15,36,000/-	₹1,63,800 x 15 =₹24,57,000/-
8	Loss of Consortium	₹5000/-	₹40000/-
9	Loss of estate	Nil	₹15000/-
10	Funeral expenses	₹.5000/-	₹15,000/-
11	Total	₹15,46,000/-	₹24,57,000 + ₹70,000= ₹25,27,000/-

[10] Accordingly, in view of the position as noted above, as against the compensation of ₹15,46,000/- awarded by the Tribunal, the appellants and the mother of the deceased (respondent No.5) are held entitled to compensation of ₹25,27,000/- to be apportioned in the ratio determined by the Tribunal after first making payment of ₹40000/- on account of loss of consortium to the widow of the dceceased. The compensation amount shall be payable along with interest @ 9% per annum with effect from the date of claim petition till date of payment, less payment, if any, made earlier. Needless to mention, the Insurance Company shall deduct tax liability qua the amount payable on account of future prospects in the light of decision in **Pranay Sethi's case (supra).**

[11] Accordingly, appeal is allowed by modifying Award dated 25.3.2010 passed by the learned Tribunal to the extent as noted above.

August 23, 2018 **(B.S.WALIA)**
manoj **JUDGE**

Whether speaking/reasoned: Yes/No
Whether Reportable : Yes/No