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

FAO No.4679 of 2011
Date of Decision: 11.09.2018

Baljinder Kaur and others
...Appellants

Versus

Harjinder Singh and others
....Respondents

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

Present: Mr. Lalit Kumar Sharma, Advocate for
Mr. Sunil Kumar Sharma, Advocate
for the appellants.

Mr. Vinod Gupta, Advocate for respondent No.3.

***

B.S.WALIA, J (Oral).

1. Claim in the appeal is for enhancement of compensation awarded by the learned Motor Accidents Claims Tribunal, Ambala (hereinafter referred to as 'the Tribunal') on account of death of Tejinder Singh in a motor vehicular accident on 28.10.2008. The Tribunal by taking into account age of the deceased as 40 years, income as ₹4,000/- per month, by applying multiplier of '14', by imposing cut of 1/4th of the income of the deceased towards his personal expenses and by awarding a sum of ₹10,000/- each towards funeral expenses and loss of estate and ₹20,000/- on account of loss of consortium, awarded total compensation of ₹5,44,000/- along with interest @ 6% per annum from the date of institution of claim petition till final realization.

2. Claim in the appeal on behalf of the widow, two children and father of the deceased is for enhancement of compensation on the ground

that multiplier was wrongly applied as '14' whereas it ought to have been applied as '15'. Secondly, no amount had been awarded on account of future prospects as also the amount awarded on account of conventional heads is inadequate besides the interest awarded by the Tribunal is also on the lower side.

3. Learned counsel for respondent No.3 has fairly not opposed the claim of the appellants.

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

5. In terms of paragraph No.21 of the decision in Sarla Verma Vs. Delhi Transport Co-op. and another, 2009 (3) RCR (Civil) 77, in case of age of the deceased between 36 to 40, multiplier of '15' is applicable. Relevant extract of 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."

Admittedly, the deceased was 40 years of age. Accordingly, multiplier of 15 is held applicable.

6. Likewise, in view of paragraph No.61 (iv) of the decision in Pranay Sethi's case (supra), where the deceased was 40 to 50 years of age, 25% of the established income of the deceased less tax component is to be taken into account while computing the future prospects**.** Relevant extract of the decision in Pranay Sethi's case (supra) is reproduced as under:-

> (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 deceased aged 40 years was employed as a Security Guard in a factory and was earning ₹4,000/- per month, therefore, 25% of the established income of the deceased minus tax component is liable to be taken into account for computing future prospects.

7. The appellants were awarded ₹10,000/- each towards funeral expenses and loss of estate. However, as per paragraph No.61 (viii) of the decision in Pranay Sethi's case (Supra), compensation of ₹15,000/-, ₹40,000/- and ₹15,000/- respectively is to be awarded on account of loss of estate, loss of consortium and funeral expenses. Relevant extract 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."

8. Accordingly, in terms of decision in Pranay Sethi's case (supra), the widow is held entitled to award of compensation of ₹40,000/- on account of loss of consortium while the appellants would be entitled to award of ₹15,000/- each on account of loss of estate and funeral expenses respectively.

9. As regard payment of interest, Hon'ble the Supreme Court in Sube Singh and another vs. Shyam Singh (dead) and others, 2018 AIR, SC 1195, in the background of the accident having taken place on 22.09.2009, enhanced the rate of interest payable from 6% to 9%. Since, in this case accident took place on 20.10.2008, therefore, it would be in the fitness of things if the interest payable is enhanced from 6% to 9% per annum.

10. 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	₹4000/-	₹4000/-
2	Future Prospects	Nil	₹1000 (25% of 4000)
4	Multiplier applied	14	15
5	Deduction (towards personal expenses of the deceased)	$1/4^{th}$ of ₹4000=₹1000	$1/4^{th}$ of ₹5000=₹1250/-

Sr. No.	Head	Amount assessed by the Tribunal	Amount assessed by this Court
6	Annual dependency	₹3000x12x14=₹5,04,000/-	₹3750x12x15=₹6,75,000/-
7.	Funeral expenses	₹10000/-	₹15000/-
8.	Loss of consortium	₹20,000/-	₹40000/-
9.	Loss of estate	₹10000/-	₹15000/-
10.	Interest	6%	9%
	Total	₹5,44,000/-	₹7,45,000/-

11. Accordingly, as against the compensation of ₹5,44,000/- awarded by the Tribunal, the appellants/claimants are held entitled to award of compensation of ₹7,45,000/- along with interest @ 9 w.e.f. the date of filing of the claim petition till payment, less amount already paid.

12. Needless to mention, the appellants would be 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 Insurance Company shall make the payment to the appellants after making deduction of the tax liability, if any qua future prospects, in accordance with the decision of Hon'ble the Supreme Court in Pranay Sethi's case (supra).

13. Accordingly, appeal is allowed and award is modified to the extent as noted above.

(B.S.WALIA)
JUDGE

11.09.2018.
rajesh.k.khurana

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