IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.6243 of 2012 (O&M)
Date of Decision : 15.11.2018

Chetan Gupta & ors.

....Appellants

VERSUS

Subeg Singh & ors.

...Respondents

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

Present: Mr. Vaibhav Sehgal, Advocate for the appellants.

Mr. Satpal Dhamija, Advocate for respondent No.3-Insurance Company.

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B.S. WALIA, JUDGE (ORAL)

1. Appeal has been filed by the independent son and two unmarried daughters of deceased Devinder Gupta who died in a motor vehicular accident on 3.10.2009. The learned Motor Accidents Claims, Tribunal, Fatehgarh Sahib (hereinafter referred to as 'the Tribunal) by taking into account the age of the deceased as 56 years, profession Shopkeeper, applied multiplier of 10, imposed deduction of 1/3rd of his income towards personal expenses and worked out dependency at ₹46,000/- per annum. Further by adding ₹4,000/- towards funeral expenses and ₹10,000/- towards loss of estate, the Tribunal awarded total compensation of ₹4,74,000/-.

2. Learned counsel for the appellant contended that no amount had been awarded on account of future prospects besides compensation awarded on account of funeral expenses and loss of estate was also on the lower side. Moreover, no amount had been awarded on account of loss of parental consortium. Learned counsel further contended that rate of interest was also on the lower side and the same was liable to be enhanced to 9% per annum.

3. Per contra, learned counsel for respondent-Insurance Company contended that the multiplier of 10 had been wrongly applied whereas multiplier of 9 ought to have been applied.

4. I have considered the submissions of learned counsel for the parties and am of the view that for the reasons as are mentioned hereunder, the appeal is liable to be allowed and the compensation is liable to be enhanced.

5. Admittedly, the deceased was 56 years of age. As per decision in **'Sarla Verma vs. Delhi Transport Corporation', 2009 ACJ 1298,** in case the age of the deceased is 56 years, multiplier of 9 is applicable. Accordingly, multiplier of 9 shall be applied in the instant case for working out the compensation payable. Secondly, the income of the deceased has been assessed as ₹70,000/- per annum and after making deduction of 1/3rd , a sum of Rs.46,000/- was arrived at on account of annual dependency whereas by deducting 1/3rd of the income of the deceased, the figure works out to ₹46,666/. Accordingly, the annual dependency of the deceased would be taken as ₹46,666/-. No amount has been awarded on account of future prospects despite the fact that as per paragraph No.61(iv) of the decision in **National Insurance Company Limited vs. Pranay Sethi and others-2017(4) RCR (Civil) 1009** where the deceased was self employed and between 50-60 years of age, 10% of the established income of the deceased less tax component is to be taken into account for the purpose of working out compensation on account of future prospects.

6. In this case, since the deceased was 56 years of age, therefore, 10% of the established income minus the tax component shall be added on account of future prospects.

7. As per paragraph 61(viii) of the decision in **Pranay Sethi's** case (supra) a sum of ₹15,000/- is payable on account of funeral expenses while like

amount is payable on account of loss of estate and ₹40,000/- on account of loss of consortium.

Accordingly, a sum of ₹4,000/- and ₹10,000/- awarded on account of funeral expenses and loss of estate is enhanced to 15,000/- for funeral expenses and 15,000/- towards loss of estate.

8. Subsequent to its decision in Pranay Sethi, Hon'ble the Supreme Court in **Magma General Insurance Co. Ltd. vs Nanu Ram Alias Chuhru Ram** and others decided on 18.09.2018 in Civil Appeal No.9518 of 2018, held that compensation is payable on account of loss of parental consortium to the children of the deceased. Accordingly, the appellants i.e. three children of the deceased would be entitled to award of ₹40,000/- each on account of loss of parental consortium.

9. Learned counsel for the appellants contends that in view of the decision of Hon'ble the Supreme Court in **Sube Singh and another vs. Shyam Singh (dead) and others 2018 (2) RCR (Civil) 131,** which pertains to an accident of the year 2009, rate of interest had been awarded @ 9% per annum. Learned counsel contends that in the instant case also, the accident is of the year 2009, therefore, interest ought to be enhanced from 6% to 9% per annum.

In the light of the decision of Hon'ble Supreme Court in **Sube Singh's** case (supra), interest payable on the compensation is enhanced from 6% to 9%.

10. Accordingly, in the light of the position as noted above, the compensation payable works out as under:

Sr. No.	**Head**	**Amount assessed by Tribunal in ₹**	**Amount assessed by this Court in ₹**
1	Annual Income	70,000/-	70,000/-
2	Future prospects	NIL	10%=7000/-
3	Deduction towards personal expenses of deceased.	1/3rd of total income 70,000/3= 23,333/-	1/3rd of total income (70000+7000) 77000/3= 25667/-

4	Annual dependency arrived at	46667 /- (wrongly calculated as 46000/-)	51333 /-
5	Multiplier applied	10	09
6	Compensation awarded	46667x10 = 4,66,670/-(wrongly calculated as 4,60,000/-)	51333x9 =4,61,997/- rounded off to 4,62,000/-
7	Funeral expenses	4000/-	15000/-
8	Loss of parental consortium to three children	NIL	40,000/- to each of the children Total= 1,20,000/-
9	Interest	6%	9%
10	Total	4,80,670/- (wrongly calculated as 4,74,000/-)	6,11,997/- rounded off to 6,12,000/-

11. Accordingly, in the light of the position as noted above, appellant Nos.2 and 3 (unmarried daughters) are held entitled to compensation on account of dependency at ₹4,62,000/- to be shared equally as against compensation of ₹4,60,000/- (wrongly apportioned as ₹4,34,000/-) along with interest @ 9% per annum with effect from the date of claim petition till date of payment less amount, if any, already paid. Apart from above compensation, appellant Nos.2 and 3 shall be entitled to ₹40,000/- each along with appellant No.1 besides all appellants shall equally share compensation on account of funeral expenses and loss of estate. Thus, appellant Nos.2 and 3 will be entitled to ₹2,81,000/- each while appellant No.1 shall be entitled to ₹40,000/- on account of loss of parental consortium besides, ₹10,000/- on account of proportionate share of compensation on account of funeral expenses and loss of estate alongwith appellant Nos.2 and 3. However, no compensation is payable to appellant No.1 on account of dependency as he was not dependent on the deceased.

12. Needless to mention, tax liability qua future prospects shall be deducted in accordance with the decision in **Pranay Sethi's** case (supra) while paying compensation.

13. Accordingly, appeal is allowed. Award dated 02.09.2011 passed by the learned MACT, Fatehgarh Sahib is modified to the extent as noted above.

(B.S. WALIA)
JUDGE

November 15, 2018
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No