IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.1441 of 2013
Date of Decision: 11.09.2018

Kulwinder Kaur and others
...Appellants
Versus
Nirvair Singh and others
....Respondents

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

Present: Mr. V.S. Punia, Advocate for the appellants.
Mr. Sandeep Verma, Advocate for
Mr. Vinod Gupta, Advocate for respondent No.3.
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B.S.WALIA, J (Oral).

1. Claim in the appeal is for enhancement of compensation awarded by the learned Motor Accidents Claims Tribunal, Jind (hereinafter referred to as ‘the Tribunal’) on account of death of Sukhbir Singh in a motor vehicular accident on 07.05.2010. The Tribunal by taking into account income of the deceased at ₹3600/- per month, applying multiplier of ‘16’, by imposing cut of 1/3rd of the income of the deceased towards his personal expenses and by awarding a sum of ₹10,000/- towards conventional heads, awarded a lump sum compensation of ₹4,70,800/- along with interest at the rate of 9% per annum from the date of institution of claim petition till final realization.

2. Learned counsel for the appellants contended that as per notification issued by the Government of Haryana minimum wages for the relevant period for unskilled labourer was ₹4214/- per month. The same has not been disputed by the learned counsel for the respondent. Copy of notification No.14131-256 dated 17.03.2010, is taken on record.

3. Claim in the appeal on behalf of the widow, two children and parents of the deceased is for enhancement of compensation on the ground that the income of the deceased was wrongly taken at ₹3600/- as against the income of ₹4214/- per month as per notification issued by the Government of Haryana for the relevant period. Secondly, the multiplier was wrongly applied as '16' whereas it ought to have been applied as '17'. Thirdly, the deduction was wrongly made @ 1/3rd whereas it ought to have been made @ 1/4th of the income of the deceased besides the appellants were entitled to compensation on account of conventional heads @ ₹70,000/- for loss of consortium, loss of estate and funeral expenses. Besides no amount had been awarded on account of future prospects.

4. Learned counsel for respondent No.3 has not disputed the aforementioned position.

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

6. Admittedly, the wages payable to an unskilled labourer for the relevant period was ₹4214/- per month as per notification referred to above. Accordingly, the monthly wages of ₹4214/- is to be taken into account as the established income of the deceased for the purpose of working out compensation payable.

7. Secondly, in view of paragraph No.21 of the decision in Sarla Verma Vs. Delhi Transport Corp. and another, 2009 (3) RCR (Civil) 77, as deceased was 29 years of age, multiplier of '17' is applicable. Relevant extract of 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.”

8. Besides, since the deceased left behind five dependants, therefore, in terms of paragraph No. 14 of the decision in Sarla Verma’s case (supra) deduction is to be made @ 1/4th and not @ 1/3rd towards personal expenses of the deceased. Relevant extract of 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 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.”

9. The appellants were awarded ₹10,000/- towards funeral expenses, transportation charges and loss of consortium. However, as per paragraph No.61 (viii) of the decision in National Insurance Company Ltd. versus Pranay Sethi and others, 2017(4) RCR (Civil) 1009, 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.”

10. Accordingly, in terms of decision in Pranay Sethi’s case (supra), the wife of the deceased is held entitled to award of compensation of ₹40,000/- on account of loss of consortium while the appellants are held be entitled to award of ₹15,000/- on account of loss of estate and funeral expenses respectively.

11. Since the deceased was self-employed and below 40 years of age as on the date of accident, 40% of established income of the deceased less tax component is to be taken into account while computing the future prospects in terms of paragraph No.61 (iv) of the decision in Pranay Sethi’s

case (supra). 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.

12. In the circumstances, the compensation payable to the appellants/claimants works out as under:

Sr. No.	**Head**	**Amount assessed by the Tribunal**	**Amount assessed by this Court**
1	Income	₹3600/-	₹4214/-
2	Future Prospects	Nil	₹1685 (40% of ₹4214)
3	Total Income assessed	₹3600/-	(₹4214 + ₹1685) = ₹5899/-
4	Multiplier applied	16	17
5	Deduction (towards personal expenses of the deceased)	1/3rd ₹3600-₹1200=₹2400	1/4th ₹5899-₹1475=₹4424
6	Annual dependency	₹2400x12x16=4,60,800	₹4424x12x17=₹9,02,496
7.	Funeral expenses, transportation and consortium	₹10000/- (Consolidated)	₹40,000 (Loss of consortium) ₹15,000 (Loss of estate) ₹15,000 (Funeral expenses)
	Total	₹4,70,800/-	₹9,72,496/-

13. Accordingly, as against the compensation of ₹4,70,800/- awarded by the Tribunal, the appellants/claimants are held entitled to award of compensation of ₹9,72,496/- along with interest @ 9 w.e.f. the date of filing of the claim petition till payment, less amount already paid.

14. 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 wife of the deceased. The Insurance Company shall make the payment to the appellants after making deduction of the tax liability towards future prospects, in accordance with the decision of Hon'ble the Supreme Court in Pranay Sethi's case (supra).

15. 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