

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

**Cross Objection No.167-CII of 2014 &
FAO No.2244 of 2013
Date of Decision :25.05.2018**

Amandeep Kaur & others.

....APPELLANTS

VERSUS

Pritpal Singh & ors.

...RESPONDENTS

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

Present: Mr. M.S. Balianwali, Advocate
for the appellants.

Mr. Paul S. Saini, Advocate and Mr. Vipul Sharma, Advocate for
respondent No.3-United India Insurance Company.

B.S. WALIA, JUDGE (ORAL),.

1. Appeal has been filed by the widow, minor daughter, minor son, mother and father of deceased Gurpreet Singh, who died in a motor vehicular accident on 6.7.2009 at the age of 31 years.

2. Prayer is for enhancement of compensation on the ground that no amount has been awarded towards future prospects, amount awarded on account of conventional heads is only ₹9500/- whereas in terms of the decision of Hon'ble the Supreme Court in **National Insurance Company Limited vs. Pranay Sethi and others-2017(4) RCR (Civil) 1009**, the appellants are entitled to ₹70,000/-. Besides, ₹3500/- was deducted towards personal expenses of the deceased whereas in accordance with paragraph No.30 of the decision in **Sarla Verma's**

case (supra) as referred to in **Pranay Sethi's** case (supra), deduction was to be made @ $1/4^{\text{th}}$ of the income of the deceased.

3. Insurance Company, on the other hand, has filed cross-objections No.167-CII of 2014 on the ground that multiplier of 17 was incorrectly applied and multiplier of 16 was required to be applied in view of paragraph No.42 of the decision of Hon'ble the Supreme Court in '**Sarla Verma vs. Delhi Transport Corporation**', 2009 ACJ 1298 as referred to in **Pranay Sethi's** case (supra).

4. I have heard learned counsel for the parties.

5. Admittedly, the income of the deceased was taken at ₹10,000/- per month out of which deduction of ₹3500/- was made towards personal expenses of the deceased. Since there are four dependents of the deceased, in terms of paragraph No.30 of the decision in **Sarla Verma's** case (supra) as referred to in **Pranay Sethi's** case (supra), deduction for personal expenses is to be made @ $1/4^{\text{th}}$. Paragraph No.61(v) of the decision in **Pranay Sethi's** case (supra) and paragraph No.30 of the decision in **Sarla Verma's** case (supra) are reproduced hereunder:

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

v) 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 Chandra⁴, the general practice is to apply

standardised deductions. Having considered several subsequent decisions of this 37 (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.”

7. No amount has been awarded on account of future prospects. In view of paragraph No.61(iv) of the decision of Hon'ble the Supreme Court in **Pranay Sethi's** case (supra), where the deceased was self employed or on a fixed salary, an addition of 40% of the established income is to be made where the deceased was below the age of 40 years. Admittedly, the deceased was 31 years of age. He was self employed and his income was assessed at ₹10,000/- per month. Accordingly, addition of 40% of the established income minus the tax component is to be taken into account for the purpose of working out the amount payable towards future prospects. Relevant extract of the aforementioned decision is reproduced as under:-

“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.”

8. Likewise, in terms of Paragraph No.61(viii) of the decision in **Pranay Sethi's** case (supra), a sum of ₹15,000/-, ₹40,000/- and ₹15,000/- respectively is to be granted on account of loss of estate, loss of consortium and funeral expenses respectively whereas in this case only ₹9500/- has been granted. Accordingly, the amount on account of conventional head is liable to be enhanced to ₹70,000/-. Relevant extract of the aforementioned decision is reproduced as under:-

“61(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.”

9. As far as the cross-objections filed by the Insurance Company are concerned, a perusal of Paragraph No.42 of the decision in **Sarla Verma's** case (supra) as referred to in paragraph No.44 of the decision in **Pranay Sethi's** case (supra) reveals that in the age group of 31 to 35, multiplier of 16 is to be applied whereas in the instant case, multiplier of 17 has been applied. Accordingly, in view of the decision in **Sarla Verma's** case (supra), multiplier of 16 and not 17 is to be applied for granting compensation. 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.”

10. Accordingly, in the light of the position as noted above, the award is modified and the compensation enhanced as under:

Sr. No.	Head	Amount assessed by Tribunal in ₹	Amount assessed by this Court in ₹
1	Income	10,000/-	10,000/-
2	Future prospects	NIL	@ 40%= 4,000/-
3	Total income assessed	10,000/-	14,000/-
4	Deduction towards personal expenses of deceased.	3500/-	1/4 th of 14,000/- =3500/-
5	Dependency arrived at	6500/-	10,500/-
6	Multiplier applied	17	16
7	Compensation awarded	6500x12x17 = 13,26,000/-	10500x12x16 = 20,16,000/-
8	Loss of consortium	5,000/-	40,000/-
9	Funeral expenses	2,000/-	15,000/-
10.	Loss of Estate	2,500/-	15,000/-
	Total	13,35,000/-	20,86,000/-

11. Resultantly, as against the compensation of ₹13,35,000/- awarded to the claimants by the Tribunal, the appellants are awarded compensation of ₹20,86,000/- along with interest @ 7.5% per annum with effect from the date of the claim petition till realisation of the amount, less payment, if any, already made. Needless to mention that the compensation shall be paid to the claimants in the same ratio as was determined by the Tribunal in Paragraph No.18 of the award after first making payment of ₹40,000/- towards loss of consortium to the wife of the deceased. Needless to mention that while making payment on account of future prospects, the Insurance Company would make the necessary deductions towards the tax component in accordance with the decision in **Pranay Sethi's** case (supra).]

12. Accordingly, the appeal is allowed. Award dated 04.01.2013 passed by the learned MACT, Bathinda is modified to the extent as noted above. Accordingly, cross-objections are also disposed of.

**(B.S. WALIA)
JUDGE**

May 25, 2018

ps

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