IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO no.10405 of 2014 (O&M)
Date of Decision: 30.11.2018

Seema Rani and others ...Appellants

Vs.

Surinder Singh and others ...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. A.S. Brar, Advocate, for the appellants.
Mr. Gopal Mittal, Advocate, for respondent no.3-Insurance Co.

<u>Amol Rattan Singh, J (Oral)</u>

1. By this appeal, the appellants seek enhancement of the compensation of Rs.12,68,000/- awarded by the learned Motor Accident Claims Tribunal, Moga (hereinafter referred to be as “the Tribunal”), vide its Award dated 08.07.2014, on account of the death of Karan Sharma on 19.09.2011 in a motor vehicle accident.

2. Appellants no.1, 2 and 3 are stated to be mother, father and sister respectively, of the deceased person.

The accident in question is stated to have taken place on 19.09.2011, with the age of the deceased found to be 27 years.

The respondents not being in appeal against any finding of the Tribunal, the only question to be decided by this Court is as to whether the compensation awarded by the Tribunal to the appellants is adequate or not.

3. Learned counsel for the appellants submits that the income of the deceased has been erroneously taken to be Rs.16,000/- per month by the

Tribunal, whereas actually it was Rs.25,000/- even as per the 'salary certificate' issued by the employer of the deceased, i.e. M/s Genius Consultants Limited (Ex. P-4 before the Tribunal).

He further submits that the Tribunal has also erred in applying a multiplier of '13', by taking into account the age of the mother of the deceased, whereas the settled law is to the effect that the multiplier, even in the case of a bachelor, is to be applied as per the age of the deceased.

In support of his contention, he cites a judgment of the Supreme Court in **Munna Lal Jain v. Vipin Kumar Sharma** (2015) 6 SCC 347.

He also submits that towards the personal expenses of the deceased, only 1/3rd of his income should have been deducted and not half thereof as has been done by the Tribunal, in view of the fact that there are three claimants, i.e. the appellants, who are dependent on his income.

Lastly, he submits that no amount has been awarded by the Tribunal for loss of future prospects of an increased income.

4. Learned counsel for the respondent-insurance company, on the other hand, very fairly submits that as regards the multiplier to be applied, the ratio of the judgment of the Supreme Court in **Munna Lals**' case (supra) cannot be denied. Consequently, the multiplier applicable would be '17' and not the '13'.

However, he submits that as regards the income of the deceased, only Ex.P-4, i.e. the salary certificate issued by his employer states that the deceased was drawing a gross salary of Rs.25,000/- per month whereas the pay slips exhibited by the claimants as Exs.P-16 to P-18, for the period June 2011 to August 2011, show his gross income to be Rs.15,999/- for the last two months, with the net income shown to be Rs.8533/- for the month of June 2011.

5. Having considered the above, it is seen that as per the last pay-slip Ex.P-18, the deceased was drawing the following salary under different heads:-

Salary heads	Gross Amt (Rs.)	Actual Amt (Rs.)	Deductions	Amt (Rs.)	Net Amt (Rs.)
Basic	7501	7501	PF	0	
Fxd. Conv.	800	800	ESI	0	
HRA	699	690	PT	0	
Medical Allowance	625	625	LWF EMP	1	
Monthly Bonus	625	625			
Other Allow	5750	5750			
Total	16000	16000		1	15999

In the opinion of this Court, though the Medical Allowance of Rs.625/- and Fixed Conveyance Allowance of Rs.800/- would be deductions correctly made to assess the loss of dependency, they being specific to the claim and usage respectively, of the deceased himself, the House Rent Allowance, the Monthly Bonus and other allowances (to the tune of Rs.699/-, Rs.625/- and Rs.5750/- respectively), cannot be deducted for determining the loss of dependency of the appellants on the deceased, because the House Rent Allowance very much goes to the familys' “kitty', as would the monthly bonus and other allowances. Thus, calculated, the monthly income of the deceased comes to be Rs.23074/-, with the monthly bonus seen to be a constant Rs.625/- over the 3 month period of June to August 2011.

6. To that amount, 50% is to be added by way of loss of future prospects of an increased income, the deceased being an employee with a public limited company, even though it was a privately managed company, where he is shown to have been employed as an Operator (S/B), (i.e. Side Boom, as contended by the learned counsel for the appellants), which actually is stated to be a crane operator as is not denied even by the learned counsel for respondent no.3.

Hence, in my opinion, though learned counsel for the respondent-insurance company has stated that it being a privately managed company, only 40% and not 50% is to be added to the income in terms of the ratio of the judgment of the Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others** (2017) 16 SCC 680, I would hold that he was in a regular job, and consequently 50% of the aforesaid amount of Rs.23074/- is added to the said amount, thereby bringing his monthly income, including future prospects of an increased income, to be Rs.34611/-, or Rs.4,15,332/- per annum.

From the aforesaid amount, 10% is deducted towards income tax as would have become payable by him (keeping in view the addition of the income in the future) and consequently his net income annual income is to be taken to be Rs.3,73,798/-, rounded off to Rs.3,73,800/-.

From that amount 50% is to be deducted as has been done by the Tribunal, he being a bachelor (and not 1/3rd as contended by the learned counsel for the appellants, even in terms of the ration of the judgment of the Supreme Court in **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another,** (2009) 6 SCC 121).

7. Hence, the loss of 'dependent income' to the appellants would work out to be Rs.1,86,900/-, to which a multiplier of '17' is to be applied , with the total amount under the head of loss of income would come to Rs.31,77,300/-.

8. Without going into the issue of whether it is the ratio of the judgment in the case of **Magma General Insurance Co. Ltd. v. Nanu Ram @ Chuhru Ram and others**, (Civil Appeal no.9581 of 2018 arising out of SLP (Civil) no.3192 of 2018, decided on 18.09.2018), or the ratio of the judgment in **Pranay Sethis'** case (supra) that would apply, as learned counsel for the appellant submits he would rather not delay the outcome of the appeal and therefore accepts the ratio in Pranay Sethis' case, taking it to be the ratio of a judgment of the larger Bench, a sum of Rs.70,000/- is further to be added under the 'conventional heads'; of loss of estate, loss of love and affection and towards funeral expenses.

9. Thus, the total compensation awarded is Rs.31,77,300 plus Rs.70,000/-, totaling to an amount of Rs.32,47,300/-, against Rs.12,68,000/- awarded by the Tribunal.

On the aforesaid amount, interest @ 6% per annum is awarded on the enhanced amount, running from the date of filing of the claim petition till its realization thereof.

The enhanced sum shall be distributed in the same proportion among the appellants-claimants, as was done by the Tribunal on the amount awarded by it.

10. The appeal is allowed in the above terms.

30.11.2018 **(Amol Rattan Singh)**
vcgarg **Judge**

Whether speaking/reasoned : Yes
Whether reportable : Yes