(215) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.3929 of 2013
Date of decision: 16.11.2018

Poonam and others
..... Appellants

Versus

Munshi Lal and others
..... Respondents

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

Present: Mr. R.S. Mamli, Advocate for the appellants.
Mr. R.C. Kapoor, Advocate for the respondents.

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B.S. WALIA, J. (ORAL)

[1] Appeal has been filed by the widow, minor daughter, minor son and mother of Vijay Singh who died in a motor vehicular accident on 16.01.2012 at the age of 37 years. The deceased was a self-employed business man and as per income tax return was earning ₹ 15,000/- per month. The learned Motor Accident Claims Tribunal, Faridabad (hereinafter referred to as "the Tribunal") assessed the income of the deceased as ₹ 15,000/- per month and awarded future prospects @ 30%. Annual dependency worked was out at ₹ 2,34,000/- (i.e. 15,000 x 12 =1,80,000 + 30% of 1,80,000/-=54,000). Since, the deceased was having four dependents, the learned Tribunal deducted 1/4th of the income of the deceased towards his personal expenses. The same worked out to ₹1,75,500/- (i.e. 2,34,000 - 58,500) and by applying multiplier of 15, the multiplicand worked out to ₹ 26,32,500/- (i.e. 1,75,500/- x 15). Thereafter, by awarding ₹ 5000/- on account of funeral expenses, ₹ 5000/- towards loss of estate and ₹ 5000/- to the wife towards loss of consortium, the appellants

were held entitled to compensation of sum of ₹ 26,47,500/- (i.e. 26,32,500 +5000+5000+5000).

[2] Admittedly, at the time of accident, the deceased was 37 years of age and was earning ₹ 15,000/- per month. Annual dependency works out to ₹ 1,80,000/- out of which income tax deduction is to be made @ ₹ 5500/- bringing the dependency to ₹ 1,74,500/- (erroneously taken by the learned Tribunal at ₹ 1,75,500). Thereafter, by applying multiplier of 15, the multiplicand works out to ₹ 26,17,500/- (i.e. 1,74,500/- x 15) (erroneously recorded as ₹ 26,62,500/- by the learned Tribunal at one place and ₹ 26,32,500/- at another place in paragraph No.38).

[3] As per paragraph No.61 (viii) of the decision in **National Insurance Company Limited v. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009,** a sum of ₹40,000/- is payable on account of loss of consortium besides ₹ 15,000/- on account of loss of estate likewise on account of funeral expenses.

However, in a subsequent decision by 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, while taking note of its earlier decision in Pranay Sethi's case, Hon'ble the Supreme Court held that a sum of ₹ 40,000/- is payable to the wife of the deceased on account of loss of spousal consortium while children of the deceased are also entitled to compensation on account of loss of parental consortium.

In the instant case, the deceased left behind his wife and two minor children; besides, his mother. Accordingly, in view of the decision in Magma General Insurance's case (Supra), the wife of the deceased is held entitled to award of spousal consortium @ ₹ 40,000/- while the minor children of the deceased are held entitled to ₹ 40,000/- each on account of loss of parental consortium. However, no amount is payable on account of loss of consortium to the mother of the deceased in view of the decision in Magma General Insurance Company's case (Supra).

Accordingly, the appellants are held entitled to award of ₹ 15,000/- on account of funeral expenses, ₹ 15,000/- on account of loss of estate, ₹ 40,000/- on account of loss of spousal consortium and ₹ 80,000/- @ ₹ 40,000/- to each of the minor children on account of loss of parental consortium.

[4] Future prospects were awarded by the learned Tribunal @ 30% whereas as per 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 and was less than 40 years of age, 40% of the established income of the deceased minus tax component is to be taken into account for the purpose of computing future prospects payable.

Accordingly, in the light of the position as noted above, the appellants are held entitled to addition of 40% of the established income of the deceased less tax component on account of future prospects.

[5] Established income of the deceased was ₹ 15,000/-, 40% of the same works out to ₹ 6,000/-, raising the income of the deceased to ₹ 21,000/- (i.e. 15,000 + 6000). The annual dependency works out to ₹ 2,52,000/- (i.e. 21,000 x 12) minus the tax component on account of future prospects. Deduction would be made @ 1/4th since the deceased left behind four claimants which comes out to ₹ 63,000/- (i.e. 1/4th of ₹ 2,52,000/-). Accordingly, the dependency works out to ₹ 1,89,000 (i.e. 2,52,000 - 63,000) minus tax component on account of tax payable on future prospects. By applying multiplier of 15, the amount of compensation would be ₹

28,35,000 (i.e. 1,89,000 x 15) and by adding the conventional heads (i.e. loss of estate; funeral expenses and loss of consortium to wife and minor children, total amount of compensation works out to ₹ 29,85,000/- (i.e. 28,35,000 + 15,000+ 15,000 + 1,20,000).

[6] In the light of the position as noted above, compensation payable works out as under:-

Sr. No.	**Heads**	**Amount assessed by the Tribunal**	**Amount assessed by the Court**
1.	Income	₹15,000/-	₹15,000/-
2.	Future Prospects	30% of 15,000/- = ₹4500/-	40% of 15,000/- = ₹6000/-
3.	Total Income assessed	(₹ 15,000/- + ₹ 4500/-) = ₹ 19,500/-	(₹ 15,000/- + ₹ 6000/-) = ₹ 21,000/-
4.	Multiplier applied	15	15
5.	Deduction (towards personal expenses of deceased)	1/4th of ₹ 19,500/- = ₹ 4875/-	1/4th of ₹ 21000/- = ₹ 5250/-
6.	Dependency (Annual)	(₹ 19,500/- - ₹ 4875/-) = ₹ 14625/- (per month) ₹ 14625/- x 12 = ₹1,75,500/-	(₹ 21,000/- - ₹ 5250/-) = ₹ 15750/- (per month) ₹15750/- x 12 = ₹ 1,89,000/-
7.	Compensation Awarded	₹ 1,75,500/- x 15 = ₹26,32,500/-	₹ 1,89,000/- x 15 = ₹28,35,000/-
8.	Loss of Consortium	₹ 5,000	Wife = ₹ 40,000/- Two Children = ₹ 80,000/- (@₹ 40,000/- each) Mother = NIL Total = ₹ 1,20,000
9.	Loss of Estate	₹ 5,000	₹ 15,000/-
10.	Funeral Expenses	₹ 5,000	₹ 15,000/-
11.	Interest	7.5%	7.5%
	TOTAL	**₹ 26,47,500/-**	**₹ 29,85,000/-**

[7] Accordingly, as against compensation of ₹ 26,47,500/- awarded by the Tribunal, the appellants-claimants are held entitled to compensation of ₹ 29,85,000/- along with interest @ 7.5 % per annum with effect from the date of claim petition till date of payment, less payment, if any, made earlier.

[8] Needless to mention, compensation be paid to the appellants after making payment on account of loss of consortium to the widow and minor children of the deceased as also in accordance with the ratio stipulated in their favour as per the award after deducting the tax liability if any qua the future prospects in accordance with the decision in Pranay Sethi's case (supra).

[9] Accordingly, appeal is allowed by modifying Award dated 04.01.2013 passed by the learned Tribunal, Faridabad to the extent as noted above.

(B.S. Walia)
Judge

16.11.2018
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1. Whether speaking/reasoned : Yes/No.
2. Whether reportable : Yes/No.