IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.4162 of 2013 (O&M)
Date of decision: 13.12.2018

Kiranjeet Kaur @ Kiranbir Kaur and Others
….. Appellants

Versus

Karaj Singh and others ….. Respondents

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

Present: Mr. Gaurav Kalsi, Advocate for
Mr. H.S. Batth, Advocate for the appellants.

Mr. Vinod Gupta, Advocate for respondent No.3 –
Insurance Company.

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B.S. WALIA, J. (ORAL)

[1] Appellants seek enhancement of compensation of ₹ 3,73,500/- awarded on account of death of Kulwinder Singh, husband of appellant No.1, father of appellant No.2 and son of appellant No.3, in a motor vehicular accident on 27.01.2007.

[2] The learned Motor Accidents Claims Tribunal, Tarn Taran (hereinafter referred to as 'the Tribunal') took into account the age of the deceased as 45 years and by treating the deceased as unskilled labourer assessed his income as ₹ 40,000/- per annum. Thereafter by imposing deduction of 1/3rd on the income of the deceased towards his personal expenses and by applying multiplier of 13, besides, by awarding ₹ 5,000/- on account of loss of consortium, ₹ 2,000/- on account of funeral expenses

and ₹ 2,500/- on account of loss of estate as also ₹17,000/- on account of medical expenses, awarded total compensation of ₹ 3,73,500/-.

[3] Prayer for enhancement is made on the ground that despite entitlement, no addition has been made on account of future prospects in the income of the deceased while computing compensation. Besides, the compensation awarded on account of conventional heads was also on the lower side.

[4] Learned counsel for the appellants contends that the deceased was 45 years of age, therefore, as per paragraph No.21 of the decision of Hon'ble the Supreme Court in **Sarla Verma vs Delhi Transport Corporation', 2009 ACJ 1298**, multiplier of 14 ought to have been applied. Learned counsel further contends that the interest awarded @ 7% per annum was on the lower side and it ought to have been minimum of 7.5% per annum.

[5] Learned counsel for respondent No.3 – Insurance Company has fairly not opposed the claim for enhancement.

[6] I have considered the submissions of learned counsel for the parties and am of the view that for the reasons recorded hereunder, the appeal is liable to be allowed, award modified and compensation enhanced.

[7] As per paragraph No.61 (iv) of the decision of Hon'ble the Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009**, where the deceased was self-employed and was between the age group of 40 to 50 years, 25% of the established income of the deceased minus the tax component is to be added on account of future prospects while computing compensation.

[8] Since in the instant case, the deceased was self-employed and was 45 years of age, therefore, 25% of the established income of the deceased minus the tax component is to be added on account of future prospects while computing compensation.

[9] As regards the award of appropriate compensation under the conventional heads, paragraph No.61 (viii) of the decision in Pranay Sethi's case (Supra) provides for award of compensation of ₹ 15,000/- on account of funeral expenses and like amount on account of loss of estate, besides, ₹ 40,000/- on account of loss of consortium. However, after taking into account the decision in Pranay Sethi's case (Supra), as per paragraph No.8.7 of the decision of 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, children of deceased have also been held entitled to loss of parental consortium. However, no compensation on account of loss of filial consortium is payable to the mother of the deceased on account of the deceased being married.

[10] Accordingly, the appellants are held entitled award of compensation of ₹ 15,000/- on account of funeral expenses and like amount on account of loss of estate. In addition thereto, appellant No.1 i.e. widow of the deceased is held entitled to ₹ 40,000/- on account of loss of spousal consortium while the son of the deceased is held entitled to ₹ 40,000/- on account of loss of parental consortium and further, in view of the fact that the deceased was admittedly 45 years of age, therefore, in terms of paragraph No.21of the decision in Sarla Verma's case (Supra), multiplier of 14 instead of 13 is held to be applicable. Moreover, the appellants are also

entitled to award of interest @ 7.5 % per annum on the enhanced amount of compensation.

[11] In the light of the position as noted above, the appellants are held entitled to the following compensation:-

Sr. No.	Heads	Amount assessed by the Tribunal	Amount assessed by the Court
1.	Annual Income	₹ 40,000/-	₹ 40,000/-
2.	Future Prospects	NIL	25% of ₹ 40,000/- = ₹ 10,000/-
3.	Total Income assessed	₹ 40,000/-	(₹ 40,000/- + ₹ 10,000/-) = ₹ 50,000/-
4.	Multiplier applied	13	14
5.	Amount Awarded (after applying multiplier)	₹ 40,000/- x 13 = ₹ 5,20,000/-	₹ 50,000/- x 14 = ₹ 7,00,000/-
5.	Deduction	1/3rd of ₹ 5,20,000/- = ₹ 1,73,333/-	1/3rd of ₹ 7,00,000/- = ₹ 2,33,333/-
6.	Amount Awarded (after deduction)	(₹ 5,20,000/- - ₹ 1,73,333/-) = ₹ 3,46,667/- (rounded off – ₹ 3,47,000/-)	(₹ 7,00,000/- - ₹ 2,33,333/-) = ₹ 4,66,667/- (rounded off – ₹ 4,67,000/-)
7.	Medical Expenses	₹ 17,000/-	₹ 17,000/-
8.	Loss of Estate	₹2500/-	₹ 15,000/-
9.	Funeral Expenses	₹ 2,000/-	₹ 15,000/-
10.	Loss of Spousal Consortium	₹ 5,000/-	₹ 40,000
11.	Loss of Parental Consortium	NIL	₹ 40,000/-
12.	Interest	7% per annum	7.5% per annum
	TOTAL	₹ 3,73,500/-	**₹ 5,94,000/-**

[12] Accordingly, as against compensation of ₹ 3,73,500/- awarded by the Tribunal, the appellants/claimants are held entitled to award of compensation of ₹ 5,94,000/- along with interest @ 7.5% per annum on the enhanced amount with effect from the date of claim petition till date of payment, less payment, if any, made earlier as per their shares apportioned by the learned Tribunal by first making payment of ₹ 40,000/- each to appellant Nos.1 and 2 on account of loss of spousal and parental consortium.

[13] Needless to mention the Insurance Company shall deduct tax liability, if any, qua future prospects in accordance with the decision of Hon'ble the Supreme Court in Pranay Sethi's case (Supra).

[14] Accordingly, appeal is allowed by modifying Award dated 05.11.2012 passed by the learned Tribunal, Tarn Taran to the extent as noted above.

(B.S. Walia)
Judge

13.12.2018
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1. Whether speaking/reasoned : Yes/No.
2. Whether reportable : Yes/No.