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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.244 of 2015
Date of decision : 20.12.2018

Satwinder Kaur and others

…Appellants

Versus

Satnam Singh and others

...Respondents

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

Present: Mr. Vikramjeet Singh, Advocate for the appellants.

Mr. Suvir Dewan, Advocate for respondent No.3.

Mr. Mohit Jaggi, Advocate for respondent Nos. 6 & 7.

Mr. Paul S.Saini, Advocate and
Mr. Vipul Sharma, Advocate for respondent No. 8.

None for respondent Nos.1, 2, 4 and 5.

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B.S. WALIA, J. (ORAL)

1. Appeal has been filed by the widow, two minor sons and mother of the deceased-Mehma Singh who died in a motor vehicular accident on 11.12.2001, with a prayer for enhancement of compensation of ₹15,60,400/- awarded by the learned Motor Accidents Claims Tribunal, Rupnagar (hereinafter referred to as 'the Tribunal').

2. The Tribunal by taking into account that the deceased was working as temporary Home Guard Volunteer in the Chandigarh Police and was aged 35-36 years as per the report of the post-mortem report, assessing his income as ₹11,040/- per month, applying multiplier of '15' and by making deduction of $1/4^{th}$ of the income of the deceased towards his personal expenses, besides awarding compensation of ₹30,000/- on account of loss of

consortium and ₹40,000/- on account of loss of love and affection, funeral expenses and last rites, awarded total compensation of ₹15,60,400/-.

3. Learned counsel for the appellants contends that the appeal is liable to be allowed, award modified and compensation enhanced since no amount has been awarded on account of future prospects, besides the compensation awarded under the conventional heads has not been correctly awarded. Moreover, interest awarded was also on the lower side and ought to have been awarded at 9% per annum. Learned counsel further contended that since the post mortem report mentions the age of the deceased as 35-36 years, therefore, benefit ought to have been given to the claimants and by taking the age of the deceased as 35 years, multiplier of 16 ought to have been applied instead of 15.

4. Per contra, learned counsel for the Insurance Company contends that ₹40,000/- awarded on account of loss of love and affection, funeral expenses and last rites is liable to be scaled down.

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

6. As per paragraph No.61 (iv) of the decision of Hon'ble the Supreme Court in <u>National Insurance Company Ltd. versus Pranay Sethi and others, 2017(4) RCR (Civil) 1009</u>, where the deceased was below 40 years of age, 40% of the established income of the deceased less tax component is to be added towards future prospects while computing compensation.

Since, in the instant case, the deceased was below 40 years of age, therefore, 40% of the established income of the deceased minus the tax component is liable to be added towards future prospects while computing compensation.

7. As per paragraph No.21 of the decision in Sarla Verma Vs. Delhi Transport Corp. and another, 2009 (3) RCR (Civil) 77, where the deceased was between the age of 30 to 35 years, multiplier of '16' is applicable.

Since in the instant case, the deceased as per post mortem report was around 35-36 years of age, therefore, giving the benefit of treating the age of the deceased as 35 years, multiplier of '16' is held applicable.

8. As per paragraph No.61 (viii) of the decision in Pranay Sethi's case (supra), compensation of ₹15,000/-, ₹40,000/- and ₹15,000/- respectively is to be awarded on account of loss of estate, loss of spousal consortium and funeral expenses. Further 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, in Civil Appeal No.9581 of 2018, decided on 18th September, 2018, apart from compensation on account of loss of spousal consortium, children of the deceased are also entitled to award of compensation on account of loss of parental consortium.

9. However, as per latest judgment of Hon'ble the Supreme Court in 'Vimla Devi and others vs. National Insurance Company Ltd. and others, Civil Appeal No.11042 of 2018, arising out of SLP (C) No.17321 of 2016, decided on 16.11.2018, apart from awarding ₹15,000/- towards funeral expenses and ₹15,000/- towards loss of estate a sum of ₹1 Lakh

was awarded on account of loss of spousal and parental consortium in a case involving a widow and two minor children.

10. Accordingly, the appellants are held entitled to award of ₹15,000/- on account of loss of estate, ₹15,000/- on account of funeral expenses besides consolidated amount of Rs.1 Lakh to appellant No.1-wife and appellant Nos.2 and 3/children on account of loss of spousal/parental consortium.

11. As regard payment of interest, Hon'ble the Supreme Court in Neeta and others vs. Divisional Manager MSRTC Kolapur 2015 (1) JT 354, in the background of the accident having taken place on 22.03.2012, awarded interest @ 9% per annum. Since, in this case accident took place on 11.12.2011, therefore, it would be in the fitness of things if the interest payable is enhanced from 6% to 9% per annum.

12. In the circumstances, the appellants/claimants are held entitled to the following compensation:-

Sr. No.	**Head**	**Amount assessed by the Tribunal**	**Amount assessed by this Court**
1	Income	₹11040/-	₹11040/-
2	Future Prospects	Nil	(40% of ₹11040/-) ₹4416/-
3.	Total Income	₹11040/-	₹15,456/-
4.	Multiplier applied	15	16
5.	Deduction	1/4th	1/4th
6.	Dependency	₹8280x12x15/- =₹14,90,400/-	₹11592x12x16=₹22,25,664/-
7.	Love and affection, funeral expenses and last rites.	₹40,000/-	Loss of Estate : ₹15,000/- Funeral Expenses: ₹15,000/-

Sr. No.	Head	Amount assessed by the Tribunal	Amount assessed by this Court
8.	Loss of consortium	₹30,000/-	Compensation awarded on account of loss of consortium is restricted to ₹1 Lakh in view of the decision in Vimla Devi's case (supra)
9.	Interest	6% per annum	9% per annum
	Total	₹15,60,400/-	₹23,55,664/-

13. Accordingly, as against the compensation of ₹15,60,400/- awarded by the Tribunal, the appellants are held entitled to award of compensation of ₹23,55,664/- along with interest @ 9% per annum w.e.f. the date of filing of the claim petition till date of payment, less amount if any already paid.

14. Needless to mention, the appellants would be entitled to award of compensation in proportion to their shares determined by the Tribunal after first making payment of towards loss of spousal/parental consortium to the wife and children of the deceased i.e. appellant Nos.1 to 3. The Insurance Company shall make payment of compensation to the appellants after making deduction of the tax liability, if any, qua future prospects, in accordance with the decision of Hon'ble the Supreme Court in Pranay Sethi's case (supra).

15. Accordingly, appeal is partly allowed and award dated 29.03.2014 passed by the learned Tribunal, Rupnagar, is modified to the extent as noted above.

(B.S.WALIA)
JUDGE

20.12.2018
rajesh.k.khurana
Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No