

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.322 of 2015
Date of Decision : 19.01.2018

Nazina and others

....APPELLANTS

VERSUS

Sahun and ors.

....RESPONDENTS

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

Present: Mr. Ashish Gupta, Advocate for the appellants.

Mr. Dixit Garg, Advocate for Mr. Aman Bansal, Advocate for
respondent No.1.

Mr. Sachin Ohri, Advocate for respondent-Insurance Company.

B.S. WALIA, JUDGE (ORAL)

1. Award dated 13.11.2014 passed by the learned Motor Accidents Claims Tribunal, Mewat (hereinafter referred to as “the Tribunal”) awarding compensation of ₹7,15,000/- to the wife, child and mother of the deceased has been challenged by the widow and minor child of the deceased on the ground that no amount was awarded towards future prospects, besides the income awarded towards loss of consortium was meagre. Moreover, no amount had been awarded on account of loss of estate.

2. The Tribunal by taking the age of the deceased as 30 years and applying

multiplier of 17, assessed the income of the deceased as Mason at ₹5,000/- per month as minimum wages payable during the relevant period and by making deduction of $1/3^{\text{rd}}$ of the income of the deceased on account of his personal expenses, worked out dependency of ₹3334/- per month and total amount payable thereof as @ ₹3334x12x17=₹6,80,136/- (rounded off to ₹6,80,000/-)

3. Learned counsel for the respondent-Insurance Company has not disputed the aforementioned factual position. He, however, contended that the amount of ₹25,000/- awarded towards funeral expenses is liable to be scaled down to ₹15,000/-

4. As per the decision of the Hon'ble Supreme Court in **National Insurance Company Limited vs Pranay Sethi and others-2017(4) RCR (Civil) 1009** where deceased was 30 years old and self employed, then in that eventuality, 40% of the established income of the deceased minus the tax component is to be added as 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.”

Since the deceased was 30 years old and self employed, the claimant-appellants are entitled to add 40% of the established income of the deceased minus the tax component towards future prospects in accordance with the decision in **Pranay Sethi's** case (supra).

5. As regards the plea pertaining to loss of estate, loss of consortium and funeral expenses, it needs noticing that in terms of paragraph No.61(viii) of the decision of the Hon'ble Supreme Court in **Pranay Sethi's** case (supra) widow of the deceased is entitled to ₹40,000/- towards loss of consortium while ₹15,000/- is payable on account of loss of estate and ₹15,000/- as funeral expenses. Relevant extract of the aforesaid decision is reproduced hereunder :-

“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.”

Accordingly, widow of the deceased is held entitled to ₹40,000/- towards loss of consortium. Besides, claimants are held entitled to ₹15,000/- on account of loss of estate. However, the amount of ₹25,000/- granted towards funeral expenses is scaled down to ₹15,000/-.

6. Accordingly, on modification of the award, compensation payable works out as under :-

Sr. No.	Head	Amount assessed by Tribunal.	Amount assessed by this Court.
1	Income	₹5000/-	No change
2	Future prospects	NIL	@ 40%=₹2000/-
3	Total income assessed	₹5000/-	₹7000/-
4	Deduction towards personal expenses of deceased.	₹1666/- (1/3 rd)	₹2333/- (1/3 rd)
5	Dependency arrived at	₹3334/-	₹4667/-
6	Multiplier applied	17	17
7	Compensation awarded	₹3334 x 12 x 17 = ₹6,80,136/- (rounded of to ₹6,80,000/-)	₹4667 x 12 x 17 = ₹9,52,068/- (rounded of to ₹9,52,000/-)

Sr. No.	Head	Amount assessed by Tribunal.	Amount assessed by this Court.
8	Loss of consortium	₹10,000/-	₹40,000/-
9	Funeral expenses/last rites	₹25,000	₹15,000/-
10	Loss of Estate	NIL	₹15,000/-
	Total	₹7,15,000/-	₹10,22,000/-

7. Resultantly, as against the compensation of ₹7,15,000/- awarded to the appellants including mother of the deceased by the Tribunal, the appellants including mother would now be entitled to ₹10,22,000/- along with interest as was awarded by the Tribunal i.e. @ 7.5% per annum with effect from the date of the claim petition till realisation of the amount, less payment, if any, already made in the manner indicated above.

8. Accordingly, appeal is allowed by modifying the award dated 13.11.2014 passed by the learned MACT, Panipat to the extent as noted above.

(B.S. WALIA)
JUDGE

January 19, 2018
ps

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