IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.4834 of 2014
Date of Decision : 18.07.2018.

Sarabjit Kaur

... Appellant

versus

Sarwan Kumar and others

.... Respondents

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

Present: Mr. Harpreet Singh, Advocate for the appellant.

None for respondent No.1.

Mr. B.S. Jaswal, Advocate
for respondent No.2.

Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate
for respondent No.3.

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B.S.WALIA, J. (Oral)

1. Prayer is for modification of award and enhancement of compensation on account of death of the appellants son i.e. Harpreet Singh who died in a motor vehicular accident on 30.09.2012 at the age of 21 years. The Motor Accidents Claim Tribunal, Amritsar (hereinafter referred to as the Tribunal) by assessing the income of the deceased as ₹7,000/-, applying multiplier of “18” and imposing a cut of 50% on account of personal expenses of the deceased, besides by awarding ₹10,000/- each on account of funeral expenses and loss of love and affection, awarded total compensation of ₹7,76,000/-.

2. Learned counsel for the appellant confines his submissions qua the non-award of future prospects, less payment on account of funereal expenses, non award of compensation on account of loss of estate besides, award of less rate of interest.

3. Learned counsel contends that the deceased was self employed, less than 40 years of age, therefore, in terms of the decision of Hon'ble the Supreme Court in National Insurance Company Ltd. versus Pranay Sethi and others, 2017(4) RCR (Civil) 2009, an addition of 40% of the established income of the deceased minus tax component was to be taken into account while computing future prospects while compensation for funeral expenses was to be made @ ₹ 15,000/- each. Regarding prayer for enhancement of interest, reliance has been placed on the decision of Hon'ble the Supreme Court in Sube Singh and another vs. Shyam Singh (dead) and others, Civil Appeal No.7176 of 2015.

4. Learned counsel for the respondent-insurance company has fairly not controverted the claim of the appellant for future prospects as well as for award of appropriate compensation on account of funeral expenses and loss of estate. However, qua prayer for enhancement of interest, learned counsel contended that in the instant case accident had taken place on 30.09.2012, whereas in Sube Singh's case (supra) accident had taken place on 22.09.2009, therefore, there was no reason for enhancement of interest to 9%. Learned Counsel further contended that claim towards loss of love and affection was not payable as the said head was not traceable in terms of the decision in Pranay Sethi's case (supra).

5. I have considered the submission's of learned counsel for the parties and am of the view that in terms of paragraph No.61 (iv) of the decision of Hon'ble the Supreme Court in Pranay Sethi's case (supra), since the deceased was self employed and less than 40 years of age, an addition of 40% of his established income minus tax component is to be made while computing future prospects. Further the compensation towards conventional heads is to be worked out as per paragraph No. 61(viii) of the decision in Pranay Sethi's case (Supra). Relevant extract of the decision of Hon'ble the Supreme Court in Pranay Sethi's case (supra) 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.
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> 61(viii) Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be ₹15,000/-, ₹40,000/- and ₹15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years."

Accordingly, 40 % of the established income of the deceased minus tax component is to be taken into account for the purposes of computing future prospects while compensation under conventional heads is to be as per paragraph No. 61(viii) of the decision in Pranay Sethi's case (Supra).

6. As regard payment of interest, Hon'ble the Supreme Court in Sube Singh's case (supra) in the background of the accident having taken place on 22.09.2009, enhanced the rate of interest payable from 6% to 9%. Since, in this case accident took place on 30.09.2012, therefore, it would be in the fitness of things if the interest payable is enhanced from 6% to 7.5% per annum.

7. 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 this Court.
1.	Income	₹7000/	No Change.
2.	Future Prospectus	Nil	40% of ₹7000 =₹2800
3.	Total Monthly Income	₹7000/-	₹7000+₹2800=₹9800/-
4.	Deduction towards personal expenses.	50%	No change.
5.	Multiplier	'18'	'18'
6.	Dependency	3500x12x18=₹7,56,000/-	4900x12x18=₹10,58,400/-
7.	Loss of Love and affection	₹10000/-	Nil.
8.	Loss of Estate	Nil	₹15,000/-
9.	Funeral expenses	₹10000/-	₹15000/-
10.	Interest	6%	7.5%
	Total	₹ 7,76,000/-	₹10,88,400/-

8. Accordingly, in view of the position as noted above, as against the compensation of ₹7,76,000/- awarded to the appellant, the appellant is held entitled to award of compensation of ₹10,88,400/- along with interest @ 7.5% per annum w.e.f. the date of claim petition till date of payment,

less amount, if any already paid. Insurance company shall make the payment to the appellant in accordance with the decision of Hon'ble the Supreme Court in Pranay Sethi's case (supra), after making deduction of the tax liability qua future prospects.

9. Accordingly, appeal is allowed and award is modified to the extent as noted above.

(B.S.WALIA)
JUDGE

18.07.2018.
rajesh.k.khurana
Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No