IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.5828 of 2013
Date of Decision: 22.10.2018.

Om Parkash and another

...Appellants

Versus

Ram Chander and others

....Respondents

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

Present: Mr. Rajbir Singh Arya, Advocate for the appellants.

Respondent Nos.1 and 2 ex parte vide order dated 13.10.2014.

Ms. Vandana Malhotra, Advocate for respondent No.3.

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B.S.WALIA, J (Oral).

1. Claim in the appeal is for enhancement of compensation awarded by the learned Motor Accidents Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal') on account of death of Gurmer Singh, son of the appellants, in a motor vehicular accident on 07.08.2009, at the age of 22 years.

2. The Tribunal by treating the deceased to be an unskilled labourer assessed his notional income at ₹4200/- per month. Thereafter, by applying multiplier of '14', imposing a cut of 50% of the income of the deceased towards his personal expenses and awarding ₹2,000/- towards funeral expenses, ₹5,000/- towards love and affection, ₹5,000/- towards loss of estate, awarded total compensation of ₹3,64,800/- along with interest @ of 6% per annum.

3. Learned counsel for the appellants has confined his arguments to four points viz., that since the deceased was 22 years of age, therefore, in

view of paragraph No.21 of the decision in Sarla Verma Vs. Delhi Transport Corp. and another, 2009 (3) RCR (Civil) 77, multiplier of'18' was to be applied, secondly that no future prospects had been awarded despite entitlement in terms of paragraph No.61 (iv) of the decision in National Insurance Company Ltd. versus Pranay Sethi and others, 2017(4) RCR (Civil) 1009, thirdly that the compensation on account of conventional heads had not been granted appropriately and fourthly that the interest awarded was on the lower side and the same ought to have been awarded, minimum @ 9% per annum.

4. Per contra, learned counsel appearing on behalf of respondent No.3/Insurance Company does not dispute the claim of the appellant with regard to applicability of multiplier of '18', and appropriate compensation under conventional heads in view of the decision in Pranay Sethi's case (supra). However, learned counsel contends that no amount is payable on account of love and affection, besides no interference was warranted w.r.t. interest as the same had been awarded in accordance with law.

5. As per paragraph No.61(iv) of the decision of Hon'ble the Supreme Court in Pranay Sethi's case (supra), where the deceased is self employed and less than 40 years of age, 40% of the established income of the deceased is to be added on account of future prospects while assessing compensation.

6. Since in the present case, the deceased was 22 years of age and self employed, 40% of his established income is to be added on account of future prospects while assessing compensation.

7. Besides as per paragraph No.61(viii) of the decision in Pranay Sethi's case (supra), the appellants are held entitled to Rs.15,000/- on account of funeral expenses, Rs.40,000/- on account of loss of filial consortium to each of the parents in view of the decision in Magma General Insurance Company Ltd. vs. Nanu Ram @ Chuhru Ram and others dated 18.09.2018 in Civil Appeal No.9581 of 2018 arising out SLP (Civil) No.3192 of 2018. However, no sum is payable on account of loss of love and affection.

8. Further, admittedly the deceased was 22 years of age. As per paragraph No.21 of the decision in Sarla Verma's case (supra), where the deceased was between the age group of 21 to 25, multiplier of '18' is applicable.

9. Since, in the instant case, the deceased was 22 years of age, accordingly, multiplier of '18' is to be applied for working out the compensation payable.

10. As regards enhancement of interest, it needs noticing here that Hon'ble the Supreme Court in Sube Singh and another vs. Shyam Singh (dead) and others, 2018 AIR, SC 1195, 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 in the year 2009, therefore, claim for enhancement of interest is justified and is accordingly enhanced from 6% to 9% per annum.

11. In the circumstances, the compensation payable to the appellants/claimants works out as under:

Sr. No.	Head	Amount assessed by the Tribunal	Amount assessed by this Court
1	Income	₹4200/-	₹4200/-
2	Future Prospects	Nil	₹1680/- (40% of ₹4200/-)
3	Total Income assessed	₹4200/-	₹4200/-+₹1600/-=₹5800/-
4	Deduction (towards personal expenses of the deceased)	50% ₹4200-₹2100=₹2100/-	50% ₹5880 - ₹2940 =₹2940/-
5	Multiplier applied	14	18
6	Annual dependency	₹2100x12x14=₹3,52,800/-	₹2940x12x18=₹6,35040/-
7.	Funeral expenses	₹2000/-	₹15,000/-
8.	Loss of Estate	₹5000/-	₹15,000/-
9.	Love and affection	₹5000/-	Nil.
10.	Loss of filialConsortium	Nil.	₹80,000/- (₹40,000/- each appellant)
11.	Interest	6% per annum	9% per annum
	Total	₹3,64,800/-	₹7,45,040/-

12. Accordingly, as against the compensation of ₹3,64,800/- awarded by the Tribunal, the appellants/claimants are held entitled to award of compensation of ₹7,45,040/- along with interest @ 9% per annum w.e.f. the date of filing of the claim petition till date of payment, less amount already paid.

13. Needless to mention, the appellants would be entitled to the award of compensation in proportion to their shares determined by the Tribunal.

14. Accordingly, appeal is allowed and award dated 15.12.2011 is modified to the extent as noted above.

(B.S.WALIA)
JUDGE

22.10.2018/rajesh.k.khurana
Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No