IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.6291 of 2013 (O&M)

Date of Order: 20.09.2018

Narinder Kaur and Ors.

....Appellants

Versus

Shri K Elagovan and Others

....Respondents

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

Present: Mr. Parteek Mahajan, Advocate for the appellants.

Service of respondent No.1 dispensed with vide order dated 15.9.2015.

None for the respondent Nos.2 to 4.

B.S.WALIA, J (ORAL)

CM No.25846-CII of 2013

For the reasons as are mentioned in the application, the same is allowed. Delay of 384 days in late filing of the appeal is condoned.

Main case

[1] Appeal has been filed by the widow, two sons and one daughter all major children of deceased Sardool Singh as also mother of the deceased for enhancement of compensation of ₹12,96,000/- awarded along with interest @ 6% per annum.

[2] Learned counsel for the appellants/claimants contended that

enhancement was sought on the ground that no amount was awarded towards future prospects; secondly compensation on account of conventional heads has not been awarded correctly and thirdly interest awarded @ 6% per annum is on the lower side.

[3] None is present on behalf of the respondent Nos.2 to 4 despite service. Case pertains to the year 2013, therefore, I am not inclined to grant any further adjournment. Accordingly the case is taken up for hearing.

[4] Learned Motor Accidents Claims Tribunal, Tarn Taran (hereinafter referred to as "the Tribunal") while taking into account the age of the deceased as 52 years and assessing the income at ₹14517/- per month treated the wife and mother of the deceased as dependents. The Tribunal by holding the major sons and daughter of the deceased to be not dependent upon the deceased though of course entitled to some share of the compensation being legal heirs of the deceased, worked out annual dependency at ₹1,74,204/- and after imposing deduction of 1/3rd of the income of the deceased towards his personal expenses and applying multiplier of 11 arrived at dependency of ₹12,76,000/-. By adding ₹10,000/- towards loss of consortium and ₹5000/- each on account of loss of estate and funeral expenses, total sum of ₹12,96,000/- was awarded as compensation. The accident admittedly took place on 26.10.2006. The deceased was working as Government Teacher on permanent basis in Govt. Sr. Secondary School, Tur and was drawing salary of ₹14517/- per month.

[5] I have considered the submissions of learned counsel and have perused the paper book.

[6] As per paragraph 61 (iii) of the decision in **National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR**

(Civil) 1009, where the deceased was between the age of 50 to 60 years and was working on permanent job, 15% of the established income of the deceased minus the tax component is to be taken into account for computing future prospects payable. Paragraph No.61 (iii) of the decision in **Pranay Sethi's case (supra)** is reproduced hereinbelow:

> " *61. (iii) While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax."*

[7] Since in the instant case, the deceased was admittedly 52 years of age and was working as a Government Teacher against a permanent job and earning ₹14517/- per month, therefore 15% of the established income of the deceased minus the tax component is ordered to be taken into account for the purpose of computing future prospects.

[8] As regards the conventional heads payable, learned Tribunal awarded a sum of ₹10000/- on account of loss of consortium and Rs.5000/- each towards loss of estate and funeral expenses whereas in terms of the decision in **Pranay Sethi's case (supra),** a sum of ₹15,000/- each is payable towards loss of estate and funeral expenses while ₹40,000/- is payable on account of loss of consortium to the widow. Paragraph No.61 (viii) of the aforesaid decision is reproduced hereinbelow:

> *(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, the compensation in respect of conventional heads is enhanced from ₹20,000/- to ₹70,000/-, with ₹40,000/- being paid to the widow of the deceased for loss of consortium and ₹15000/- each to the appellants on account of loss of estate and funeral expenses respectively.

[9] As regards claim for enhancement of interest, learned counsel for the appellants relied upon decision of Hon'ble the Supreme Court in **Asha Verman and Ors vs. Maharaj Singh and Ors, 2015 (4) SCC (Civil) 767, Smt Neeta W/o Kallappa Kadolkar ande others Etc vs. The Div. Manager, MSRTC, Kolhapur, 2015 (3) SCC 590, Kalpanaraj and others vs. Tamil Nadu State Transport Corporation, 2015 (2) SCC (Civil) 193** and **Kala Devi and others vs. Bhagwan Das Chauhan and others, 2015 (2) SCC (Civil) 200** to contend that in the afore-mentioned cases, interest was awarded @ 9% per annum in respect of compensation for accident which had taken place during the year 2003, 2006 & 2011 etc.

Since the accident in the instant case is of the year 2006, I am of the view that the interest payable has to be enhanced from 6% per annum to 9% per annum in the light of decision of Hon'ble the Supreme Court in **Asha Verma & Ors vs. Maharaj Singh 2015 (4) SCC (Civil) 767** and **Municipal Corporation of Delhi vs. Association of Victims of Uphaar Tragedy & others 2001 (14) SCC 481**.

[10] In view 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	₹14517/-	₹14517/-

Sr. No.	*Heads*	*Amount assessed by the Tribunal*	*Amount assessed by this Court*
2	Future Prospects	NIL	15 % of ₹14517 = ₹2177/-
3	Total income assessed	₹14517/-	(₹14517 + ₹2177) = ₹16694/-
4	Deduction (monthly of total income assessed towards personal expenses)	1/3rd of (₹14517) ₹14517-₹4839=₹9678 ₹9678 x 12 =₹1,16,136/-	1/3rd of ₹16694= ₹5564/- ₹16694-₹5564= ₹11130/- ₹11130 x 12 = ₹1,33,560/-
5	Multiplier applied	11	11
6	Dependency	₹9678 x 12 x 11= ₹12,77,496/- rounded of to ₹12,76,000/-	₹11130 x 12 x 11 =₹14,69,160/-
7	Loss of Consortium	₹10,000/-	₹40000/-
8	Loss of estate	₹5,000/-	₹15,000/-
9	Funeral expenses	₹5,000/-	₹15,000/-
10	Total	₹12,96,000/-	₹15,39,160/-

[11] Accordingly, in view of the position as noted above, as against the compensation of ₹12,96,000/- awarded by the Tribunal, the appellants are held entitled to compensation of ₹15,39,160/- to be apportioned in the ratio determined by the Tribunal after first making payment of ₹40,000/- on account of loss of consortium to the widow of the deceased. The compensation amount shall be payable along with interest @ 9% per annum with effect from the date of claim petition till date of payment, less payment, if any, made earlier. However, the appellants are not entitled to interest for the period of more than one year i.e delay which occurred in late filing of the appeal. In other words, the period of delay though condoned in filing the appeal shall be excluded while calculating interest on the awarded amount. Needless to mention, the Insurance Company shall deduct tax

liability qua the amount payable on account of future prospects in the light of decision in **Pranay Sethi's case (supra).**

[12] Accordingly, appeal is allowed by modifying Award dated 25.3.2010 passed by the learned Tribunal to the extent as noted above.

September 20, 2018 **(B.S.WALIA)**
manoj **JUDGE**

Whether speaking/reasoned: Yes/No
Whether Reportable : Yes/No