IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.5707 of 2014 (O&M)
Date of Decision : 13.12.2018

Sukhchain Singh & ors.

....Appellants

VERSUS

Pankaj Arora & others

...Respondents

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

Present: Ms. Ekta Thakur, Advocate for the appellants.

Mr. Vinod Chaudhari, Advocate
for respondent No.3-Insurance Company.

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B.S. WALIA, JUDGE (ORAL)

1. Appeal has been filed by the widow, minor son and father of Dharam Pal, who died in a motor vehicular accident on 8.2.2010 at the age of 29 years. The learned Motor Accidents Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal) treated the deceased as an unskilled labourer, assessed his income at ₹4000/- per month, by making deduction of 1/3rd of the notional income of the deceased towards his personal expenses and by applying a multiplier of 16, besides, by awarding ₹1,00,000/- on account of loss of consortium to the wife of the deceased, ₹25,000/- on account of funeral expenses and like amount on account of loss of estate, awarded total compensation of ₹6,61,872/-.

2. Learned counsel for the appellants contended that compensation is liable to be enhanced by applying multiplier of 17, addition of 40 % of the established income of the deceased towards future prospects as also by grant of interest @ 9% per annum.

3. Per contra, learned counsel for the respondent-Insurance Company contended that ₹1,00,000/- awarded on account of loss of consortium to the widow of the deceased and ₹25,000/- on account of funeral expenses was liable to be scaled down to ₹40,000/- and ₹15,000/- respectively. Besides, ₹25,000/- awarded on account of loss of love and affection was not payable.

4. At this stage, learned counsel for the appellants contended that no doubt ₹1,00,000/- awarded on account of loss of consortium to the widow of the deceased was liable to be scaled down to ₹40,000/- yet in view 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 18 September, 2018, the minor son of the deceased was entitled to award of ₹40,000/- on account of loss of parental consortium.

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

6. Admittedly, the deceased was 29 years of age. As per paragraph No.61(iv) of the decision of Hon'ble Supreme Court in **National Insurance Company Limited vs. Pranay Sethi and others-2017(4) RCR (Civil) 1009**, where the deceased was self employed and less than 40 years of age, 40% of the established income of the deceased minus the tax component is to be added in the income towards future prospects while computing the compensation.

7. As per paragraph No.61(viii) of the decision in **Pranay Sethi's** case (supra), ₹15,000/- is payable on account of loss of estate, besides, like amount is payable on account of funeral expenses while ₹40,000/- is payable on account of loss of spousal consortium. However, as per decision of Hon'ble the Supreme Court in **Magma General Insurance Co. Ltd's case (supra), the minor child** of the deceased is also entitled to ₹40,000/-. On

account of loss of parental consortium. However, no amount is payable on account of loss of love and affection. Besides, since the deceased was 29 years of age, therefore, as per paragraph No.21 of the decision of Hon'ble the Supreme Court in **Sarla Verma Vs. Delhi Transport Corp. and another,** 2009 (3) RCR (Civil) 77, multiplier of 17 shall be applicable.

8. Learned counsel for the appellant contended that in **Sube Singh and another vs. Shyam Singh (dead) and others 2018 (2) RCR (Civil) 131** Hon'ble the Supreme Court was pleased to award interest on compensation @ 9 % per annum in respect of accident of the year 2009 and since the accident in the instant case was of February, 2010, therefore, interest payable to the appellants also be enhanced from 7.5% per annum to 9% per annum.

Since accident in the instant case is of 8th February, 2010, therefore, in view of the decision of Hon'ble the Supreme Court in **Sube Singh's** case (supra) interest payable is enhanced from 7.5 % to 9% per annum.

9. Accordingly, in the light of the position as noted above, the appellants are held entitled to the following compensation:

Sr. No.	**Head**	**Amount assessed by Tribunal in ₹**	**Amount assessed by this Court in ₹**
1	Monthly Income	4,000/-	4,000/-
2	Future prospects	Nil	40%=1600/- 4000+1600=5600/-
3	Deduction towards personal expenses of deceased.	1/3rd=1334/-	1/3rd=1867/-
4	Multiplier applied	16	17
5	Compensation awarded	2666x12x16=5,11,872/-	3733x12x17=7,61,532/-
6	Loss of consortium	1,00,000/-	40,000/- to the widow 40,000/- to the son
7	Funeral expenses	25000/-	15000/-
8.	Loss of love and affection	25,000/-	Nil
8	Loss of estate	Nil	15,000/-
9	Total	6,61,872/-	8,71,532/-

10. Accordingly, in the light of the position as noted above, the appellants are held entitled to award of compensation of ₹8,71,532/- as against compensation of ₹6,61,872/- awarded by the learned Tribunal along with interest @ 9% per annum on the enhanced amount with effect from the date of claim petition till the date of payment less amount, if any, already paid.

11. Needless to mention, tax liability, if any, qua future prospects shall be deducted in accordance with the decision in **Pranay Sethi's** case (supra).

12. Accordingly, appeal is partly allowed. Award dated 11.11.2013 passed by the learned MACT, Chandigarh is modified to the extent as noted above.

(B.S. WALIA)
JUDGE

December 13, 2018
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No