**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No.5727 of 2014
Date of Decision : 18.07.2018.

Sandeep Kaur and another

... Appellants

versus

Sarwan Kumar and others

.... Respondents

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

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

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.

1. Prayer in the instant appeal is for modification of award and enhancement of compensation on account of death of Nishan Singh husband of appellant No.1 and son of appellant No.2, who died at the age of 27 years in a motor vehicular accident which took place on 30.09.2012. The Tribunal by assessing the income of the deceased as ₹6,000/- and by applying multiplier of 17 and imposing a cut of 1/3rd of the income of the deceased towards his personal expenses, besides by awarding ₹10,000/- on account of funeral expenses and ₹50,000/- on account of loss of consortium, awarded a compensation of ₹8,76,000/-.

2. Learned counsel for the appellant confines his argument for enhancement of compensation by award of Rs.15,000/- as funeral expenses instead of ₹10,000/-, award of compensation towards loss of estate of

₹15,000/-, award of future prospectus as also for enhancement of interest payable at 9%. Learned counsel for the respondents on the other hand contended that loss of consortium could not be more than Rs.40,000/- besides interest had rightly been awarded at 6% per annum.

3. I have heard the submission of learned counsel for the parties. Admittedly the deceased was 27 years of age, was self employed and was earning ₹6,000/- per month besides left behind two dependents. Accordingly, deduction @ 1/3rd of the income of the deceased towards personal expenses was correctly made. However, in terms of paragraph No.61 (viii) of the decision of Hon'ble the Supreme Court in National Insurance Company Ltd. versus Pranay Sethi and others, 2017(4) RCR (Civil) 2009, ₹15,000/- each is to be awarded on account of loss of estate and funeral expenses while ₹40,000/- towards loss of consortium. Relevant extract of the decision of Hon'ble the Supreme Court in Pranay Sethi's case (supra) is reproduced as under:-

> 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.

4. In the circumstances, the widow would now be entitled to award of ₹40,000/- on account of loss of consortium as against ₹50,000/- awarded by the Tribunal, while the appellants would be entitled to ₹15,000/- towards funeral expenses as against ₹10,000/- besides ₹15,000/- on account of loss of estate.

5. No amount was awarded towards future prospects. Admittedly, the deceased was 27 years of age and was earning ₹6,000/- per month besides left behind two dependents. As per paragraph No.61 (iv) of the decision of Hon'ble the Supreme Court in Pranay Sethi's case (supra), where the deceased was less than 40 years of age and was self employed, then 40% of the established income of the deceased less tax component is to be added for computing future prospects. Relevant extract of 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.

6. Accordingly, appellants would be entitled to award of future prospects @ 40% of the established income of the deceased less tax. Regarding interest reliance has been placed on the decision of Hon'ble the Supreme Court in <u>Sube Singh and another vs. Shyam Singh (dead) and others</u>, civil appeal No.7176 of 2015, decided on 09.02.2018, wherein while taking into account that the accident pertained to 22.09.2009, rate of interest was enhanced from 6% to 9% per annum. In the instant case the accident is of the year 2012, therefore, it would be appropriate to award interest @ 7.5% in place of 6% per annum, in view of interest payable on deposits during the period in question.

7. In the light of the position as noted above, compensation now payable works out as under :-

Sr. No.	Heads	Amount assessed by the Tribunal.	Amount assessed by this Court.
1.	Income	₹6000/	₹6000/
2.	Future Prospectus	Nil	40% of ₹6000 =2400
3.	Total Monthly Income	₹6000/-	₹6000+2400=8400/-
4.	Multiplier	'17'	'17'
5.	Dependency	1/3rd of ₹6000=2000 ₹4000x12x17=₹8,16,000	1/3rd of 8400=2800 ₹5600x12x17 ₹11,42,400/-
6.	Loss of Estate	Nil	₹15,000/-
7.	Funeral expenses	₹10000/-	₹15000/-
8.	Loss of Consortium	₹50,000/-	₹40,000/-
9.	Interest	6%	7.5%
	Total	₹8,76,000/-	₹12,12,400/-

7. Accordingly, in view of the position as noted above, as against the compensation of ₹8,76,000/- awarded to the appellants, the appellants are held entitled to award of compensation of ₹12,12,400/- along with interest @ 7.5% per annum w.e.f. the date of claim petition till the date of payment, less amount, if any already paid. Needless to mention, the appellants would be entitled to the award of compensation in proportion to their shares determined by the Tribunal after first making payment of ₹40,000/- towards loss of consortium to the widow of the deceased. 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, if any.

8. 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