(101) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.4704 of 2015
Date of decision: 07.12.2018

Savitri Devi

…… Appellant

Versus

Abhay Singh and others

….. Respondents

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

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

Mr. Rajnish Malhotra, Advocate for respondent No.3 – Insurance Company.

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B.S. WALIA, J. (ORAL)

[1] Appeal has been filed by the mother of the deceased Mannu who died in a motor vehicular accident on 18.09.2012 praying for modification of award and enhancement of compensation on the ground that despite entitlement, no compensation had been awarded on account of future prospects nor was any interest paid on the awarded amount; besides, only ₹ 10,000/- was awarded on account of funeral expenses as against the entitlement of award of ₹ 15,000/- for funeral expenses, ₹ 15,000/- towards loss of estate and ₹ 40,000/- on account of loss of filial consortium.

[2] Learned Motor Accidents Claims Tribunal, Panipat (hereinafter referred to as "the Tribunal") took into account the age of the deceased as 20 years, assessed the income as ₹ 8,000/- per month, applied multiplier of 18, made deduction of 50% of the income of the deceased towards his personal

expenses and thereafter, by awarding ₹ 10,000/- on account of funeral expenses awarded total compensation of ₹ 8,74,000/-.

[3] As per paragraph No.61 (iv) of the decision in **National Insurance Company Limited v. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009**, where the deceased was on a fixed salary and less than 40 years of age, then in that eventuality 40% of the established income of the deceased minus the tax component is to be taken into account for the purpose of computing future prospects payable.

Since in the instant case, the deceased admittedly was treated to be on a fixed salary i.e. of ₹ 8000/- per month and was less than 40 years of age, therefore, 40% of the established income of the deceased less tax component will have to be added on account of future prospects while computing compensation.

[4] Likewise, as against ₹ 10,000/- awarded on account of funeral expenses, appellant is entitled to ₹ 15,000/- likewise on account of loss of estate.

Besides, appellant who is the mother of the deceased-son would be entitled to award of compensation of ₹ 40,000/- on account of loss of filial consortium in view of paragraph No.8.7 of the decision of Hon'ble the Supreme Court in **Magma General Insurance Co. Ltd. v. Nanu Ram Alias Chuhru Ram and others decided on 18.09.2018 in Civil Appeal No.9518 of 2018**.

[5] In the circumstances, the appellant is held entitled to ₹ 15,000/- on account of funeral expenses, ₹ 15,000/- on account of loss of estate and ₹ 40,000/- towards loss of filial consortium.

[6] As regards claim for interest, it needs noticing that the learned Tribunal ordered that the payment of the awarded amount be paid within 2 months from the date of award failing which the same was to carry interest at the rate of 9% per annum from the date of filing of the claim petition till realization.

[7] Learned counsel contends that the aforementioned finding is liable to be modified and the appellant held entitled to award of interest with effect from the date of claim petition till date of payment.

[8] I find merit in the submissions of learned counsel for the appellant. Since the appellant is entitled to compensation with effect from the date of filing of the claim petition, therefore, compensation shall be paid along with interest @ 7.5 % per annum with effect from the date of claim petition till date of payment, less payment, if any already made.

[9] 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	₹ 8000/-	₹ 8000/- (No Change)
2.	Future Prospects	NIL	40 % of ₹ 8000 = ₹ 3200/-
3.	Total Income assessed	₹ 8000/-	(₹ 8000 + ₹ 3200) = ₹ 11,200/-
4.	Multiplier applied	18	18
5.	Deduction (towards personal expenses of deceased)	50% of ₹ 8000/- = ₹ 4000/-	50% of ₹ 11,200/-) = ₹ 5600/-
6.	Dependency (Annually)	₹ 4000 x 12 = ₹48,000/-	₹ 5600 x 12 = ₹ 67,200/-
7.	Compensation Awarded	₹ 48,000 x 18 = ₹ 8,64,000/-	₹ 67200 x 18 = ₹ 12,09,600/-
8.	Loss of Estate	NIL	₹ 15,000/-

9.	Funeral Expenses	₹ 10,000/-	₹ 15,000/-
10.	Loss of Filial Consortium	NIL	₹ 40,000/-
11.	Interest	NIL 9% per annum (with effect from the date of claim petition till date of payment where payment is made beyond two months)	7.5% per annum (with effect from the date of claim petition till date of payment)
	Total	**₹ 8,74,000/-**	**₹ 12,79,600/-**

[10] Accordingly, as against compensation of ₹ 8,74,000/- awarded by the Tribunal, the claimant-appellant/mother is held entitled to compensation of ₹ 12,79,600/- along with interest @ 7.5 % per annum with effect from the date of claim petition till date of payment, less payment, if any, made earlier.

[11] Needless to mention, the Insurance Company shall deduct the tax liability, if any, qua future prospects, in accordance with the decision in Pranay Sethi's case (supra).

[12] Accordingly, appeal is allowed by modifying Award dated 30.03.2015 passed by the learned Tribunal to the extent as noted above.

(B.S. Walia)
Judge

07.12.2018
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1. Whether speaking/reasoned : Yes/No.
2. Whether reportable : Yes/No.