IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.571 of 2016 (O&M)
Date of decision: 09.10.2018

UMED SINGH & ORS ... Appellants

Versus

RAM PRASAD & ORS ... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Sant Lal Barwala, Advocate for the appellants.

Mr. Vinod Gupta, Advocate for the insurance company.

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REKHA MITTAL, J. (Oral)

The claimants are in appeal seeking enhancement of compensation on account of death of Naveen in a motor vehicular accident that took place on the intervening night of 22/23.06.2014.

The Tribunal has awarded compensation of Rs.7,80,000/-, detailed hereunder:-

1. Monthly income of the deceased	Rs.7500/-
2. Multiplier	14
3. Deduction for personal expenses	50%
4. Loss of dependency	Rs.6,30,000/-
5. Expenses on funeral and transportation	Rs.25,000/-
6. Loss of love and affection	Rs.1,00,000/-
7. Cost of litigation	Rs.25,000/-

The Tribunal has assessed income of the deceased at Rs.7500/- per month. The plea of the claimants is that Naveen was dealing in sale and purchase of property and used to earn Rs.25,000/- per month.

I have gone through copy of statement of Umed Singh, supplied during the course of hearing. Umed Singh has not produced any documentary evidence with regard to avocation of the deceased. His testimony does not find corroboration from any independent source. However, in cross examination of Umed Singh, photocopy of Secondary

School Examination Certificate Mark R1 was produced. Taking into consideration minimum wage available at the relevant time coupled with educational qualification of Naveen, interest of justice would be served, if income of the deceased is assessed at Rs.6000/- per month. Claimants shall be entitle to addition in income for future prospects @ 40%. The deceased was 24 years old, therefore, admissible multiplier is 18. In this context, reference can be made to judgments of Hon'ble the Supreme Court **Sarla Verma & Ors vs Delhi Transport Corp.& Anr, 2009 (3) RCR (Civil) 77**, **Munna Lal Jain and anr. vs. Vipin Kumar Sharma and ors., 2015 (3) SCC (Civil) 315** and **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270.**

The application for compensation has been filed by the parents and sisters of the deceased. The question for consideration is as to what should be the deduction for personal expenses where the deceased is a bachelor and claimants are his parents. In a recent judgment passed by Hon'ble the Supreme Court **Magma General Insurance Co. Ltd. Vs. Nanu Ram @ Chuhru Ram and others, Civil Appeal No.9581 of 2018 arising out of SLP (Civil) No.3192 of 2018 decided on 18.09.2018,** the Court has affirmed deduction for personal expenses to the extent of 1/3rd with the observations that the deceased was living in a village where he was residing with his aged father who was about 65 years old and an unmarried sister considered to be dependents upon him. On the issue of deduction towards personal and living expenses in **Sarla Verma & Ors's case (supra),** in paragraph 31, it was held quoted thus:-

> In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent/s and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependant and the mother alone will

> be considered as a dependent. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependents, because they will either be independent and earning, or married, or be dependent on the father.

A three judge bench of Hon'ble the Supreme Court in **Munna Lal Jain and another's case (supra)** has affirmed deduction of 50% to be applied in the case of a bachelor unless a case for departure in the circumstances is made out. A relevant extract from paras 8 and 9 of the judgment reads as follows:-

> 8. On the issue of deduction towards personal and living expenses in Sarla Verma (Smt.) and others v. Delhi Transport Corporation and another[2], at paragraph-31, it was held that:
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>> 31. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent(s) and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependant and the mother alone will be considered as a dependant. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependants, because they will either be independent and earning, or married, or be dependent on the father."
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> 9. The deduction ordinarily in the case of a bachelor at 50 % was approved recently by a three-Judge Bench decision in Reshma Kumari and others v. Madan Mohan and another[3], holding that the standard fixed in Sarla Verma (supra) on the aspect of deduction for personal and living expenses "must ordinarily be followed unless a case for departure in the circumstances noted in the preceding paragraph is made out". Preceding paragraph-41 reads as follows:
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>> "41. The above does provide guidance for the appropriate deduction for personal and living expenses. One must bear in mind that the proportion of a man's net earnings that he saves or spends exclusively for the maintenance of others does not form part of his living expenses but what he spends exclusively on himself does. The

> percentage of deduction on account of personal and living expenses may vary with reference to the number of dependent members in the family and the personal living expenses of the deceased need not exactly correspond to the number of dependents."

Taking into consideration the enunciation in **Munna Lal Jain and another's case (supra)** decided by a three Judge bench and in absence of any special circumstances warranting deviation from the formula laid down in **Sarla Verma & Ors's case (supra)**, in my considered opinion, the appellant cannot be heard to say that deduction for personal expenses should be less than 50%. Further, siblings of the deceased are not entitle to compensation during lifetime of their father more particularly in the circumstances that there is nothing on record suggestive of the fact that their father has suffered any disability rendering him incapable to earn livelihood for his family. Accordingly, deduction for personal expenses allowed by the Tribunal is affirmed. In this manner, loss of dependency is calculated at Rs.9,07,200/- [(Rs.6000 x 12 x 18) + (40% future prospects) – (50% deduction for personal expenses)].

Under conventional heads, claimants No.1 and 2 shall be entitle to loss of consortium @ Rs.40,000/- each i.e. Rs.80,000/-, Rs.15,000/- for funeral expenses and Rs.15,000/- for loss to estate.

Total compensation is Rs.10,17,200/- and the additional amount is Rs.2,37,200/- (10,17,200 – 7,80,000), payable with interest @7.5% per annum from the date of petition till realization, to mother of the deceased.

The appeal is disposed of in the aforesaid terms.

09.10.2018 **(REKHA MITTAL)**
ashok **JUDGE**

Whether speaking/reasoned: Yes / No
Whether reportable: Yes / No