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

**FAO No.5828 of 2016 (O&M)
Date of Decision : 22.11.2018**

Sadhu Singh

....Appellant

VERSUS

Satyapal Gangwar & others

...Respondents

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

Present: Mr. Deepak Aggarwal, Advocate for the appellant.

None for respondent Nos.1 and 2.

Mr. D.K. Prajapati, Advocate for Mr.Raghujeet Singh Madan, Advocate for the respondent -Insurance Company.

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B.S. WALIA, JUDGE (ORAL)

1. Appeal has been filed by the father of the deceased seeking enhancement of compensation of ₹6,30,000/- awarded on account of death of his son Gurmeet Singh in a motor vehicular accident on 4.9.2014. The learned Motor Accidents Claims, Tribunal, Bathinda (hereinafter referred to as 'the Tribunal) by taking into account the age of the deceased as 32 years, assessed the monthly income at ₹6,000/- . Thereafter, by making deduction of 50% of the income of the deceased towards his personal expenses and by applying a multiplier of 16, besides, ₹25,000/- on account of funeral expenses, ₹25,000/- on account of general damages and loss of estate, awarded total compensation of ₹6,30,000/-.

2. The only argument of learned counsel for the appellant for enhancement is that despite entitlement no amount was awarded on account of future prospects in view of paragraph No.61(iv) of the decision in **National**

Insurance Company Limited vs. Pranay Sethi and others-2017(4) RCR (Civil) 1009.

3. Learned counsel for the respondent-Insurance Company has fairly not disputed the claim for enhancement on account of award of future prospects in view of decision in **Pranay Sethi's** case (supra). He has also confirmed that no cross appeal has been filed by the Insurance Company. Learned counsel further contends that the sum of ₹25,000/- awarded on account of funeral expenses and ₹25,000/- on account of general damages and loss of estate is liable to be scaled down to ₹15,000/- to each count.

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

5. As per paragraph No.61(iv) of the decision in **Pranay Sethi's** case (supra) where the deceased was self employed and less than 40 years of age, 40% of his established income less tax component would be taken into account for the purpose of assessing the future prospects. Paragraph No.61(iv) of the decision in **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.*"

In this case, since the deceased was less than 40 years of age and was self employed, 40% of his established income minus the tax component shall be taken into account for the purpose of computing the future prospects payable.

6. As regards the submission of learned counsel for the respondent-Insurance Company that the amount on account of conventional head as has

been awarded is on the higher side, it needs noticing that as per paragraph No.61(viii) of the decision in **Pranay Sethi's** case (supra), a sum of ₹15,000/- is payable on account of funeral expenses, likewise, on account of loss of estate. Accordingly, paragraph No.61(viii) of the decision 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 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, in the light of the aforementioned decision, compensation of ₹25,000/- awarded on account of funeral expenses and ₹25,000/- on account of general damages and loss of estate is reduced to ₹15,000/- on each count.

7. Accordingly, in the light of the decision as noted above, the appellant is held entitled to the following compensation:

Sr. No.	**Head**	**Amount assessed by Tribunal in ₹**	**Amount assessed by this Court in ₹**
1	Monthly Income	6,000/-	6,000/-
2	Future prospects	NIL	40%=2400/- 6000+2400=8400
3	Deduction towards personal expenses of deceased.	**50%**	**50%**
4	Multiplier applied	16	16
5	Compensation awarded	3000x12x16=5,76,000/-	4200x12x16=8,06,400/-
6	Funeral expenses	25000/-	15000/-
7	General damages and loss of estate	25,000/-	15,000/- (only loss of estate)
8	Total	6,26,000/- rounded off Rs.6,30,000/-	8,36,400/-

11. Accordingly, in the light of the position as noted above, the appellant is held entitled to the award of compensation of ₹8,36,400/- as

against compensation of ₹6,30,000/- 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.

12. Needless to mention, tax liability if any on the established income of the deceased shall be deducted in accordance with the decision in **Pranay Sethi's** case (supra) while paying amount on account of future prospects.

13. Accordingly, appeal is allowed. Award dated 13.05.2016 passed by the learned MACT, Bathinda is modified to the extent as noted above.

(B.S. WALIA)
JUDGE

November 22, 2018
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No