IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

FAO No.8995 of 2014 (O&M)
Date of Decision: January 22, 2018.

Mamta and others

..........APPELLANT(s).

VERSUS

Vinod Kumar and others

........RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Vivek Khatri, Advocate
for the appellant (s).

Mr. S.S. Sidhu, Advocate
for respondent No.3.

****

SURINDER GUPTA, J.

Motor Accident Claims Tribunal, Hissar (hereinafter referred to as 'the tribunal') vide award dated 11.08.2014 allowed compensation of ₹15,24,568/- for death of Kashmiri Lal, husband of appellant No.1, father of appellants No.2 and 3 and son of appellant No.4, in a motor vehicle accident with Sumo Spacio vehicle bearing registration No.HR-61-0011 being driven by respondent No.1 and owned by respondent No.2.

As the only issue involved in this appeal relates to quantum of compensation as awarded by Tribunal, detailed facts of the case are being skipped for the sake of brevity.

The compensation awarded was computed as follows:-

Sr. No.	***Heads***	***Calculation***
(i)	Name of the deceased	Kashmiri Lal
(ii)	Age of the deceased	32 years

(iii)	Income of the deceased	₹7039 p.m.
(iv)	Deduction towards personal expenses 1/4th	₹7039-₹1760= ₹5279 i.e. ₹63348 p.a.
(v)	Multiplier applied 16	₹63348 X16 = ₹1013568/-
(vi)	Loss of love and affection	₹400000
(vii)	Loss of consortium	₹100000
(viii)	Funeral expenses	₹11000
Total		₹15,24,568/-

Learned counsel for the appellants has argued that the deceased was self employed and claimants are entitled to addition of 40% in the income of the deceased towards future prospects and are also entitled to compensation of ₹15,000/- for loss of estate and ₹15,000/- towards funeral expenses as per the observations in case of ***National Insurance Company Limited Vs. Pranay Sethi and others 2017(4) R.C.R. (Civil) 1009***.

Learned counsel for insurance company though has not conceded the submissions of learned counsel for the appellants but could not rebut the same in view of the observations of Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others (supra)***. However, he has argued that even if the ratio of law laid down by Hon'ble Apex Court in the aforesaid citation, be applied to facts of this case, this fact is to be taken care that the tribunal has awarded compensation of ₹1 lakh towards loss of consortium and ₹4 lakh towards loss of love and affection. The compensation which can be allowed under conventional heads as per the observations of Hon'ble Apex Court in case of ***National Insurance Company Limited Vs. Pranay Sethi and others (supra)*** is ₹70,000/-.

Regarding the quantum of compensation, Constitution Bench of

Hon'ble Apex Court has observed in case of ***National Insurance Company Limited Vs. Pranay Sethi and others (supra)*** as follows:-

> "61. In view of the aforesaid analysis, we proceed to record our conclusions:-
>
> (i) The two-Judge Bench in ***Santosh Devi*** should have been well advised to refer the matter to a larger Bench as it was taking a different view than what has been stated in ***Sarla Verma***, a judgment by a coordinate Bench. It is because a coordinate Bench of the same strength cannot take a contrary view than what has been held by another coordinate Bench.
>
> (ii) As ***Rajesh*** has not taken note of the decision in ***Reshma Kumari***, which was delivered at earlier point of time, the decision in ***Rajesh*** is not a binding precedent.
>
> (iii) While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.
>
> (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.
>
> (v) For determination of the multiplicand, the deduction for personal and living expenses, the tribunals and the

> courts shall be guided by paragraphs 30 to 32 of ***Sarla Verma*** which we have reproduced hereinbefore.
>
> (vi) The selection of multiplier shall be as indicated in the Table in ***Sarla Verma*** read with paragraph 42 of that judgment.
>
> (vii) The age of the deceased should be the basis for applying the multiplier.
>
> (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."

Though the insurance company has not come up with any appeal but the compensation which can be allowed to the claimants is to be computed in the manner as laid down by Hon'ble Apex Court in the above referred case. As the counsel for the appellants while seeking addition of 40% in the income of the deceased towards future prospects, has relied on the above citation.

Taking note of the observations in the aforesaid case of ***National Insurance Company Limited Vs. Pranay Sethi and others (supra),*** the amount of compensation is computed as follows:-

Sl.No.	*Heads*	*Calculation*
(i)	Income of the deceased	₹7039 per month
(ii)	Deduction of 1/4th towards personal expenses of the deceased	₹7039-₹1760= ₹5279
(iii)	40% of above (ii) to be added as future prospects	(₹5279+₹2111)= ₹7390 per month
(iv)	Compensation after multiplier of 16 is applied	(₹7390X12X16)= ₹1418880
(v)	Loss of consortium	₹40000
(vi)	Loss of estate	₹15000
(vii)	Funeral expenses	₹15000

Sl.No.	*Heads*	*Calculation*
Total		₹14,88,880/-

The total amount of compensation comes to ₹14,88,880/-, whereas the tribunal has already allowed a compensation of ₹15,24,568/-, as such, I find no reason for further enhancement.

This appeal has no merits and the same is dismissed.

(SURINDER GUPTA)
JUDGE

January 22, 2018.
Sachin M.

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No