IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.3745 of 2017 (O&M)
Date of decision: 04.12.2018

Managing Director, Punjab State Bus Stand Management Company Ltd. and another

…… Appellants

Versus

Charanjit Kaur and another

….. Respondents

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

Present: Ms. Ambika Sood, DAG, Punjab for the appellants.
None for the respondents.

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B.S. WALIA, J. (ORAL)

[1] Appeal has been filed against award of compensation of ₹ 16,45,000/- to claimant/respondent No.1 (i.e. mother of the deceased) by the learned Motor Accidents Claims Tribunal, Gurdaspur (hereinafter referred to as 'the Tribunal') on account of death of Harjit Singh son of the respondents in a motor vehicular accident on 31.07.2013. The learned Tribunal by taking into account the age of the deceased as 26 years, by applying multiplier of 17 and by taking into account the income of the deceased as ₹ 7500/- per month assessed the dependency as ₹ 15,30,000/-. Further, by awarding a sum of ₹ 1,00,000/- on account of loss of love and affection and ₹ 15,000/- for funeral expenses, awarded total compensation of ₹ 16,45,000/-.

[2] Learned DAG for the appellants contended that award was liable to be modified, appeal allowed and compensation payable reduced on the ground that although there was no finding in the award of the father (respondent No.2 herein) of the deceased being dependent upon the deceased and compensation had been awarded only to the mother (respondent No.1

herein), yet no deduction had been made on account of personal expenses of the deceased.

[3] Learned DAG contended that in view of paragraph No.15 of the decision of Hon'ble the Supreme Court in **'Sarla Verma vs. Delhi Transport Corporation', 2009 ACJ 1298,** in the absence of proof of the father of the deceased being dependent upon him, it is only the mother of the deceased who is to be treated as dependent, therefore, 50% of the income of the deceased is to be deducted towards his personal expenses.

Since, in the instant case, it has not been proved on record that the father of the deceased was dependent upon him, therefore, only the mother of the deceased would be dependent on the deceased. Accordingly, 50% of the personal income of the deceased shall be deducted towards his personal expenses while working out the compensation to be awarded.

[4] No amount has been awarded on account of future prospects. Grounds of appeal reveal that although the respondents/claimants have admitted liability to pay future prospects, yet it has been contended that 50% cut is to be imposed before adding 50% enhancement.

[5] In the instant case, despite the salary certificate of the deceased working in a private Company having been placed on record, the learned Tribunal disbelieved the same and treating the deceased as labourer, accordingly assessed his income at ₹ 7500/- per months. Paragraph No.61 (iv) of the decision of Hon'ble the Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009**, provides for addition of 40% of the established income of the deceased minus on account of future prospects, where the deceased was self employed and below 40 years of age.

Since in the instant case, the deceased admittedly was treated as self-employed and was less than 40 years of age, therefore, 40% of the established income of the deceased less tax component shall be added on account of future prospects while computing compensation. However, the plea of the appellants that the deduction is first to be made from the income assessed and thereafter, addition is to be made on account of future prospects is noted to be rejected.

[6] Another aspect of the matter which needs noticing is that a sum of ₹ 1,00,000/- was awarded on account of loss of love and affection and ₹ 15,000/- for funeral expenses. However, no amount was awarded on account of loss of estate or for that matter, loss of filial consortium.

Paragraph No.61 (viii) of the decision of Hon'ble the Supreme Court in Pranay Sethi's case and Paragraph No.8.7 of **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** are relevant in this regard.

In view of the decision in Pranay Sethi's case (supra) and Magma General Insurance Company Ltd.'s case (supra), respondent Nos.1 and 2/claimants (i.e. mother of the deceased) are held entitled to compensation of ₹ 15,000/- on account of loss of estate in addition to the compensation of ₹ 15,000/- for funeral expenses, besides, ₹ 40,000/- on account of loss of filial consortium to be shared equally. However, no amount is payable on account of loss of love and affection in view of decision of Hon'ble the Supreme Court in Pranay Sethi's case (Supra).

[7] Accordingly, details of the compensation to which the respondents/claimants are entitled to is as under:-

Sr. No.	Heads	Amount assessed by the Tribunal.	Amount assessed by this Court.
1.	Income	₹ 7500/-	₹ 7500/- (No Change)
2.	Future Prospects	NIL	40 % of ₹ 7500 = ₹ 3000/-
3.	Total Income assessed	₹ 7500/-	(₹ 7500 + ₹ 3000) = ₹ 10,500/-
4.	Multiplier applied	17	17
5.	Deduction (towards personal expenses of deceased)	NIL	50% of ₹ 10,500/-) = ₹ 5250/-
6.	Dependency (Annually)	₹ 7500 x 12 = ₹90,000/-	₹ 5250 x 12 = ₹ 63,000/-
7.	Compensation Awarded	₹ 90,000 x 17 = ₹ 15,30,000/-	₹ 63,000 x 17 = ₹ 10,71,000/- to respondent No.1 i.e. mother alone.
8.	Loss of Love and Affection	₹ 1,00,000/-	NIL
9.	Loss of Estate	NIL	₹ 15,000/-
10.	Funeral Expenses	₹ 15,000/-	**₹ 15,000/-**
11.	Loss of Filial Consortium	NIL	₹ 40,000/- (Mother – respondent No.1) ₹ 40,000/- (Father – respondent No.2)
	Total	**₹ 16,45,000/-**	**₹ 11,81,000/-**
	Interest	8% per annum	8% per annum

[8] In view of the position as noted above, respondents/claimants are held entitled to award of compensation of ₹ 11,81,000/- as against ₹ 16,45,000/- awarded by the learned Tribunal along with interest @ 8% per annum with effect from the date of claim petition till date of payment, less payment, if any, made earlier.

It is further made clear that apart from ₹ 40,000/- on account of loss of filial consortium, besides equal share in compensation on account of funeral expenses and loss of consortium, respondent No.2 (i.e. father of the deceased) shall not be entitled to any other payment. The balance amount shall be paid to respondent No.1 (i.e. mother of the deceased) in accordance with the manner indicated by the learned Tribunal in the award.

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

[10] Accordingly, in the light of the position as noted above, the appeal is partly allowed. Award dated 22.12.2015 passed by the learned Tribunal, Gurdaspur is modified to the extent as noted above.

(B.S. Walia)
Judge

04.12.2018
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1. Whether speaking/reasoned : Yes/No.
2. Whether reportable : Yes/No.