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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.707 of 2017
Date of Decision: 13.12.2018.

Ramandeep and others

...Appellants

Versus

Nirmal Singh and others

....Respondents

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

Present: Mr. Vivek Suri, Advocate for the appellants.

Mr. Harsh Chopra, Advocate for respondent No.2.

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B.S.WALIA, J (Oral).

1. As per office report, notice could not be issued to respondent No.3 as particulars had not been give in the memo of parties. Learned counsel states that in fact no Insurance Company is involved in the instant case, therefore, respondent No.3 may be deleted from the array of respondents. Ordered accordingly. However, despite service none has put in appearance on behalf of respondent No.1. Therefore, respondent No.1 is proceeded ex parte.

2. Appeal has been filed by the widow and parents of deceased Rinku Khan, who died in a motor vehicular accident on 30.10.2015.

3. The learned Motor Accidents Claims Tribunal, Patiala (hereinafter referred to as 'the Tribunal') treated the deceased as unskilled labourer, assessed his income at ₹7500/- per month, thereafter by imposing deduction of 1/3rd of the income of the deceased towards his personal

expenses and by applying multiplier of '18' and further by awarding ₹25,000/- on account of funeral expenses, ₹1 lakh on account of loss of consortium to the widow and ₹1 Lakh on account of loss of love and affection, awarded total compensation of ₹13,05,00/- along with interest @ 6% per annum in case of failure to pay the compensation within two months from the date of award.

4. Learned counsel contends that although ₹1 lakh awarded on account of loss of consortium to the widow of the deceased is liable to be scaled down to ₹40,000/-, likewise ₹25,000/- awarded on account of funeral expenses is liable to be reduced to ₹15,000/- and ₹1 lakh awarded on account of love and affection is not payable, but at the same time, the compensation payable is liable to be enhanced by award of future prospects, besides award of ₹15,000/- on account of loss of estate.

5. Per contra, learned counsel for respondent No.2 has reiterated the reasoning for the passing of the award.

6. I have considered the submission of learned counsel for the parties. Admittedly the deceased was 23 years of age. As per paragraph No.61 (iv) of the decision of Hon'ble the Supreme Court in <u>National Insurance Company Ltd. versus Pranay Sethi and others, 2017(4) RCR (Civil) 1009</u>, where the deceased was below 40 years of age, 40% of the established income of the deceased less tax component is to be added on account of future prospects while computing compensation.

Since, in the instant case, the deceased was 23 years of age, therefore, 40% of the established income of the deceased minus the tax component is to be added on account of future prospects while computing compensation.

7. Likewise, as per paragraph No.61 (viii) of the decision in Pranay Sethi's case (supra), compensation of ₹15,000/-, ₹40,000/- and ₹15,000/- respectively is to be awarded on account of loss of estate, loss of consortium and funeral expenses.

8. Accordingly, the appellants are held entitled to award of ₹15,000/- on account of loss of estate as also ₹15,000/- on account of funeral expenses as against ₹25,000/- awarded by the Tribunal. As regards loss of consortium, appellant No.1-wife is held entitled to ₹40,000/- on account of loss of spousal consortium as against ₹1 Lakh awarded by the Tribunal. However, no amount is payable on account of loss of love and affection.

9. In the circumstances, the appellants/claimants are held entitled to the following compensation:-

Sr. No.	**Head**	**Amount assessed by the Tribunal**	**Amount assessed by this Court**
1	Income	₹7500/-	₹7500/-
2	Future Prospects	Nil	40% of ₹7500=₹3000
3.	Total Income	₹7500/-	₹10,500/-
4.	Multiplier applied	18	18
5.	Deduction	1/3rd of ₹7500- i.e. ₹2500/-	1/3rd of ₹10,500/- i.e. ₹3500/-
6.	Dependency	₹5000x12x18=₹10,80,000/-	₹7000x12x18=₹15,12,000/-
7.	Loss of spousal consortium	₹1,00,000/- (Appellant No.1-wife)	₹40,000/- (Appellant No.1-Wife)
8.	Funeral Expenses	₹25,000/-	₹15,000/-
9.	Loss of Estate	Nil.	₹15,000/-
10.	Love and affection	₹1,00,000/-	Nil.

Sr. No.	Head	Amount assessed by the Tribunal	Amount assessed by this Court
	Total	₹13,05,000/-	₹15,82,000/-

10. Accordingly, as against the compensation of ₹13,05,000/- awarded by the Tribunal, the appellants/claimants are held entitled to award of compensation of ₹15,82,000/- along with interest @ 6% per annum w.e.f. the date of filing of the claim petition till date of payment, less amount if any already paid, as against interest payable only in the eventuality of compensation not being paid within the stipulated period of time.

11. Needless to mention, the appellants would be entitled to the award of compensation in proportion to their shares determined by the Tribunal after first making payment of ₹40,000/- towards loss of spousal consortium to the wife of the deceased i.e. appellant No.1. Respondent No.2 shall make the payment to the appellants after making deduction of the tax liability, if any, qua future prospects, in accordance with the decision of Hon'ble the Supreme Court in Pranay Sethi's case (supra).

12. Accordingly, appeal is allowed and award dated 05.09.2016 passed by the learned Tribunal, Patiala is modified to the extent as noted above.

(B.S.WALIA)
JUDGE

13.12.2018
rajesh.k.khurana

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