

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

FAO No.1369 of 2003 (O&M)

Date of Decision : 23.01.2019

Smt. Satwanti & anr.

....Appellants

VERSUS

Jagmohan Singh & others

...Respondents

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

Present: None for the appellants.

Mr. Rajneesh Malhotra, Advocate
for respondent No.3-Insurance Company.

B.S. WALIA, JUDGE (ORAL)

1. None is present on behalf of the appellants.
2. Since the accident is of the year 1998 and the appeal pertains to the year 2003, I am not inclined to adjourn the matter. Accordingly, with the able assistance of learned counsel for respondent No.3-Insurance Company, I have gone over the record and considered the claim for enhancement.
3. Appeal has been filed by the mother and father of Surinder, who died in a motor vehicular accident on 16.12.1998. Prayer is for acceptance of appeal, modification of award and enhancement of compensation payable on the ground that income of ₹ 1500/- of the deceased taken into account by the learned Motor Accidents Claims Tribunal, Panipat (hereinafter referred to as 'the Tribunal') is on the lower

side, despite entitlement, no future prospects were awarded, besides compensation payable under the conventional heads was also not awarded.

4. The learned Tribunal by taking into account the age of the deceased as 20 years and treating him as unskilled labourer, assessed income of the deceased as ₹1500/- per month, made a deduction of 1/3rd of the income of the deceased towards his personal expenses, thereafter by applying multiplier of 16, awarded total compensation of ₹1,92,000/-.

5. Since the deceased was admittedly 20 years of age, therefore, in accordance with paragraph No.21 of the decision of Hon'ble the Supreme Court in **Sarla Verma Vs. Delhi Transport Corp. and another**, 2009 (3) RCR (Civil) 77, multiplier of 18 is to be applied i.e. as applicable for the age group of 18 to 25 years. Accordingly, multiplier of 18 shall be applied for the purpose of computing the compensation payable.

6. Learned counsel for the respondent-Insurance Company fairly did not oppose the plea for enhancement of income, award of future prospects and compensation on account of conventional heads. However, learned counsel contended that deduction from the income towards personal expenses of the deceased was required to be made @ 50% and not @ 1/3rd in view of decision of Hon'ble the Supreme Court in **Sarla Verma's** case (supra) in view of it not having been established by the claimants before the Tribunal that the father of the deceased was dependant upon the deceased. I find merit in the submissions of learned counsel for the respondent as the deceased was unmarried and it was not established before the Tribunal that the father of the deceased was dependant upon him. Therefore, it is only the mother of the deceased who would be treated as dependent upon the deceased. Accordingly, deduction is to be made @ 50% of the income of the deceased

7. Secondly, the minimum wages during the relevant period of time in the State of Haryana was ₹1729/-. Notification issued under the Minimum Wages Act for the relevant period reflecting minimum monthly wages to an unskilled labourer as ₹1729/- is taken on record. Accordingly, income of the deceased is taken at ₹1729/- rounded off to ₹1730/- per month as against ₹1500/- taken into account by the learned Tribunal.

8. Further as per paragraph No.61(vi) of the decision of Hon'ble the Supreme Court in **National Insurance Company Limited vs. Pranay Sethi and others-2017(4) RCR (Civil) 1009**, 40% of the established income of the deceased minus the tax component, if any, is to be added to the income of the deceased towards future prospects while computing compensation payable in view of the deceased being self employed and below 40 years of age. Since in this case, the deceased was admittedly 20 years of age and was self employed, therefore, the appellant's mother would be entitled to future prospects in the manner and at the rate indicated above.

9. No amount was awarded on account of conventional heads whereas as per paragraph No.61(viii) of the decision in **Pranay Sethi's** case (supra), ₹15,000/- is payable on account of funeral expenses, ₹15,000/- on account of loss of estate and ₹40,000/- on account of loss of spousal consortium. However, as per subsequent decision of Hon'ble the Supreme Court in **Magma General Insurance Co. Ltd vs, Nanu Ram Alias Chuhru Ram, 2018(4) RCR (Civil) 333**, parents of deceased unmarried child are entitled to loss of filial consortium @ ₹40,000/- for each parent. Accordingly, in view of the aforesaid decision, the appellants are held entitled to award of ₹40,000/- each on account of loss of filial consortium.

10. Accordingly, in the light of the position as noted above, the appellants

are held entitled to the following compensation:

Sr. No.	Head	Amount assessed by Tribunal in ₹	Amount assessed by this Court in ₹
1	Monthly Income	1500/-	1729 rounded off to 1730/-
2	Future prospects	Nil	40% of 1730/-=692 1730+692=2422/-
3	Deduction towards personal expenses of deceased.	1/3 rd =500/-	50% =1211/-
4	Multiplier applied	16	18
5	Compensation awarded	1000x12x16=1,92,000/-	1211x12x18=2,61,576/-
6	Loss of consortium	Nil	40,000/- to mother 40,000/- to father
7	Funeral expenses	Nil	15000/-
8	Loss of estate	Nil	15,000/-
9	Total	1,92,000/-	3,71,576/-

11. Accordingly, in the light of the position as noted above, the appellant No.1-mother is held entitled to award of compensation of ₹3,31,576/- as against compensation of ₹1,92,000/- awarded by the learned Tribunal along with interest @ 9% per annum on the enhanced amount with effect from the date of claim petition till date of payment less amount, if any, already paid whereas appellant No.2 would be held entitled to award of ₹40,000/- only on account of loss of filial consortium along with interest @ 9% per annum with effect from the date of claim petition till the date of payment.

12. Accordingly, appeal is allowed. Award dated 29.9.2001 passed by the learned MACT, Panipat is modified to the extent as noted above.

January 23, 2019

B.S. WALIA)
JUDGE

ps

Whether speaking/reasoned:

Whether reportable:

Yes/No
Yes/No