397 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.284 of 2002
Date of Decision:15.01.2019

Gian Kaur and others ...Petitioners

Versus

Santosh Singh and others ...Respondents

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

Present: Mr. M.S. Sidhu, Advocate for the appellants.

Mr. Ravinder Arora, Advocate for -Insurance Company.

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B.S.WALIA, J. (ORAL)

1. Appeal has been filed by the wife and seven children of Pala who died in a motor vehicular accident on 13.03.1995, seeking enhancement of compensation of ₹72,000/- awarded to the appellants in equal shares by the learned Motor Accidents Claims Tribunal, Ferozepur (hereinafter referred to as 'the Tribunal').

2. Prayer for enhancement of compensation is on the ground that once age of the deceased was taken to be between 60 to 65 years, then in view of the decision of Hon'ble Supreme Court in Sarla Verma and others Vs. Delhi Transport Corporation and another, (1009) 6 SCC 21, multiplier of '5 'could not have been applied as it is multiplier of '7' which is applicable. Secondly, no amount had been awarded on account of funeral expenses, loss of estate and loss of consortium. Thirdly, that despite entitlement, no amount was awarded on account of future prospectus. Lastly, that no interest had been awarded.

3. Per contra, learned counsel for the respondent/Insurance

Company fairly does not dispute the claim for enhancement as made by learned counsel for the appellants in view of the law laid down by Hon'ble the Supreme Court in National Insurance Company Ltd. versus Pranay Sethi and others, 2017(4) RCR (Civil) 1009 as well as Sarla Verma's case (supra).

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

5 As per paragraph No.21 of the decision in Sarla Verma's case (supra), in case of age of the deceased between 60 to 65 years, multiplier of 7 is applicable. Admittedly, age of the deceased was taken between 60 to 65 years, therefore, multiplier of '7' is applicable and not '5' as ordered by the learned Tribunal.

6. As regards claim for future prospectus, in view of paragraph No.61 (iv) of the decision in Pranay Sethi's case (supra), where the deceased was between 50 to 60 years of age, 10% of the established income of the deceased less tax component is to be added on account of future prospects while computing compensation, whereas in this case, as per the post mortem report, age of the deceased had been taken as '70' years while the Tribunal treated the deceased to be between the age of 60 to 65 years. In the facts of the case, I am of the view that no amount is liable to be awarded on account of future prospects since the deceased was more than 60 years of age as on the date of accident. Accordingly, the claim for award of future prospects is rejected.

7. As regards appropriate compensation under conventional heads, 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. After taking into account decision rendered in Pranay Sethi's case (supra), Hon'ble the Supreme Court in a subsequent decision in Magma General Insurance Co. Ltd vs. Nanu Ram Alias Chuhru Ram, in Civil Appeal No.9581 of 2018, decided on 18 September, 2018, held that each of the children of the deceased are also entitled to ₹40,000/- on account of loss of parental consortium.

9. However, as per latest judgment of Hon'ble the Supreme Court in 'Vimla Devi and others vs. National Insurance Company Ltd. and others, Civil Appeal No.11042 of 2018, arising out of SLP (C) No.17321 of 2016, decided on 16.11.2018, apart from awarding ₹15,000/- towards funeral expenses and ₹15,000/- towards loss of estate a sum of ₹1 Lakh was awarded on account of loss of spousal and parental consortium in a case involving a widow and two minor children.

10. Accordingly, the appellants are held entitled to award of ₹15,000/- on account of loss of estate, ₹15,000/- on account of funeral expenses besides consolidated amount of Rs.1 Lakh to appellant No.1-wife and appellant Nos.2 to 8/children on account of loss of spousal/parental consortium respectively.

11. As regard payment of interest, though the Tribunal has not awarded any interest on the compensation amount, however, this Court is of the view that the appellants are entitled to award of interest @ 7.5% per annum on the awarded amount from the date of claim petition till actual realization.

12. In the circumstances, the appellants are held entitled to the

following compensation:-

Sr. No.	Head	Amount assessed by the Tribunal	Amount assessed by this Court
1	Income	₹1800/-	₹1800/-
2	Future Prospects	Nil	Nil
3.	Total Income	₹1200/-	₹1200/-
4.	Multiplier applied	5	7
5.	Deduction	1/3rd of ₹1800/- i.e. ₹600/-	1/3rd of ₹1800/- i.e. ₹600/-
6.	Dependency	₹1200x12x5= ₹72,000/-	₹1200x12x7= ₹1,00,800/-
7.	Funeral Expenses	Nil	₹15,000/-
8.	Loss of Estate	Nil	₹15,000/-
9.	Loss of Consortium	Nil	Compensation awarded on account of loss of consortium is restricted to ₹1 Lakh in view of the decision in Vimla Devi's case (supra)
10.	Interest	Nil	7.5% per annum
	Total	₹72,000/-	₹2,30,800/-

13. Accordingly, as against the compensation of ₹72,000/- awarded by the Tribunal, appellants are held entitled to award of compensation of ₹2,30,800/- along with interest @ 7.5% per annum on awarded amount w.e.f. the date of filing of the claim petition till date of payment, less amount if any already paid.

14. Needless to mention that the appellants would be entitled to the award of compensation in proportion to their shares determined by the Tribunal.

15. Accordingly, appeal is allowed and award dated 03.06.2000 passed by the learned Tribunal is modified to the extent as noted above.

(B.S.WALIA)
JUDGE

January 15, 2019
Jyoti-IV/rajesh

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No