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

**FAO No.488 of 1998
Date of Decision : 05.02.2019**

BALDEV KAUR AND OTHERS. ....APPELLANTS

V/S

NAZAR SINGH AND OTHERS. ....RESPONDENTS

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

Present: Mr. Sumit Puri, Advocate
for the appellants.

Mr.Vinod Chaudhri, Advocate
for respondent No.6/*Oriental Insurance Company*.

Mr. Pawan Kumar, Senior Advocate with
Mr. Rohit Kumar, Advocate
for respondent Nos.7 & 8.

B.S. WALIA, J. (ORAL)

[1] Appeal has been filed by the then two minor children of Onkar Singh, who died in a motor vehicular accident on account of the harvest combine which was being pulled by 5 tractors including the tractor of Onkar Singh coming in contact with a low hanging electricity wire of the Punjab State Electricity Board, resulting in electrocution of Onkar Singh on 22.10.1989. The learned Motor Accidents Claims Tribunal, Sangrur, took into account the age of the deceased as 32 years, income as ₹2500/- per month, applied multiplier of '16' and by making deduction of 1/3rd of the income of the deceased towards his personal expenses, awarded compensation of ₹3,20,000/-.

[2] Learned counsel for the appellants contends that the appeal is liable to be allowed, award modified and compensation enhanced by taking into account 40% of the established income of the deceased towards future prospects, while computing the compensation payable, besides by awarding appropriate compensation under the conventional heads.

[3] Claim for enhancement has fairly not been opposed by the learned counsel for the respondent(s).

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

[5] Admittedly, the deceased was 32 years of age and was self employed. Therefore, in accordance with paragraph No.61(iv) of the decision in '***National Insurance Company Limited*** *versus* ***Pranay Sethi and others***', *2017(4) RCR (Civil) 1009,* 40% of the established income of the deceased minus the tax component is to be taken into account towards future prospects while computing the compensation besides as per paragraph No.61(viii) of the decision in ***Pranay Sethi's*** *case (supra)*, ₹15,000/- is liable to be awarded 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 paragraph No.8.7 of the decision in '***Magma General Insurance Company Limited*** *versus* ***Nanu Ram alias Chuhru Ram and others'****, 2018(4) RCR (Civil) 333*, the children of the deceased are entitled to ₹40,000/- each, on account of loss of parental consortium.

[6] However, in view of subsequent decision of Hon'ble the Supreme Court in '***Vimla Devi*** *versus* ***National Insurance Company Limited and others***', *2019(1) RCR (Civil) 86*, the amount of compensation on account of loss of spousal/parental consortium qua three claimants was restricted to

₹1,00,000/-. In the light of the position as noted above, as against compensation of ₹3,20,000/-, the appellants-claimants are held entitled to the following compensation:-

Particulars	**Assessed by the Tribunal (in ₹)**	**Re-assessed by the High Court (in ₹)**
Income assessed	2500	2500
Add : Future Prospects	NIL	40% of 2500=1000/-
Deductions	1/3rd of 2500=833/-	1/3rd of 3500= 1166.66 (rounded of to ₹1167)
Total Income	1667	2333
Multiplier	16	16
Annual income after multiplier	1667x12x16=320064/- (Rounded of to ₹3,20,000/-)	2333x12x16=447936/-
Dependency	NIL	NIL
Funeral Expenses	NIL	15000/-
Loss of Love & Affection	NIL	NIL
Loss of Estate	NIL	15000/-
Loss of consortium	NIL	40,000/- to the widow 40,000/- to each of the children. (However, the total amount on account of loss of spousal and parental consortium is restricted to ₹1,00,000/- in view of the decision of Hon'ble the Supreme Court in ***Vimla Devi's*** *case (supra)*.
Interest		6% on the enhanced amount.
Total compensation	3,20,000/-	5,77,936/-

[7] Accordingly, as against compensation of ₹3,20,000/- awarded along with interest @ 12% per annum, the appellants-claimants are held entitled to award of compensation of ₹5,77,936/- along with interest @ 6% per annum on the enhanced amount, with effect from the date of claim petition, till

date of payment less amount if any, already paid. Needless to mention, the Insurance Company shall deduct tax liability if any, qua the future prospects in accordance with the decision in '***Pranay Sethi's*** *case (supra)*.

[8] Accordingly, appeal is **allowed.** **A**ward dated 18.09.1997, passed by the learned *Motor Accidents Claims Tribunal, Sangrur*, is **modified** to the extent as noted above.

(B.S. WALIA)
JUDGE

February 05, 2019
rajneesh

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