IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.5800 of 2002 (O&M)
Date of Decision :13.02.2019

Gian Kaur & others. **....Appellants**

Versus

Managing Director, PRTC, & anr. **...Respondents**

Coram : Hon'ble Mr. Justice B.S. Walia

Present: None for the appellants.

Mr. Aman Sharma, Advocate
for the respondent-PRTC.

***

B.S. Walia, Judge (Oral).,

1. None is present on behalf of the appellants. Even on the previous date, none was present on behalf of the appellants.

2. Since the accident is of 25.10.1999 while the appeal pertains to the year 2002, I am not inclined to adjourn the matter any further. Therefore, with the able assistance of learned counsel for the respondent-PRTC, I have gone over the record and considered the claim for enhancement.

3. Appeal has been filed by the widow, two sons, one daughter and mother of Lember Singh, who died in a motor vehicular accident on 25.10.1999 seeking enhancement of compensation of ₹3,78,000 awarded by the learned Motor Accidents Claims Tribunal, Hoshiarpur (hereinafter referred to as 'the Tribunal).

4. Admittedly the deceased was less than 50 years of age on account of his date of birth being 23.03.1950. He was employed as a Keyman in the Railways on a monthly salary of ₹5206/-. The Tribunal taking into account the age of the deceased as 50 years, applied multiplier of 9, made deduction of 1/3rd of his income towards his personal expenses and

PUSHPINDER SAINI
2019.07.18 11:07
I attest to the accuracy and
integrity of this document

awarded total compensation of ₹3,78,000/-. Since the deceased was 49½ 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 13 is held applicable as against multiplier of 9 applied by the Tribunal.

5. Likewise, 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,** 30% of the established income of the deceased minus the tax component, was to be taken into account towards future prospects while computing compensation payable.

6. Likewise, as per paragraph No.61(viii) of the decision in **Pranay Sethi's** case(supra), ₹15,000/- was payable on account of funeral expenses, ₹15,000/- on account of loss of estate besides, ₹40,000/- on account of loss of spousal consortium. Further, as per paragraph No.8.7 of the decision of Hon'ble the Supreme Court in **Magma General Insurance Co. Ltd vs Nanu Ram Alias Chuhru Ram,** 2018(4) RCR (Civil) 333, each of the children of the deceased are entitled to ₹40,000/- on account of loss of parental consortium. However, in view of the subsequent decision of Hon'ble the Supreme Court in **Vimla Devi and others vs National Insurance Company Ltd. and others** decided on 16.11.2018 in Civil Appeal No.11042 of 2018 (arising out of SLP (C) No.17321 of 2016), award of compensation on account of loss of spousal and parental consortium is restricted to ₹1,00,000/-. Lastly, since the deceased left behind 5 dependents, therefore, deduction for personal expenses was to be made @ 1/4th and not 1/3rd of his income in view of the decision of Hon'ble the Supreme Court in **Sarla Verma's** case (supra).

PUSHPINDER SAINI
2019.07.18 11:07
I attest to the accuracy and
integrity of this document

7. Learned counsel for the respondent-PRTC has fairly not opposed the claim for enhancement on the aforementioned grounds.

8. In the light of the position as noted above, since the deceased was 49 ½ years of age, therefore, multiplier of 13 is applicable in accordance with paragraph No.21 of the decision of Hon'ble the Supreme Court in **Sarla Verma's** case (supra) while as per paragraph No.61(vi) of the decision in **Pranay Sethi's** case (supra), 30% of the established income of the deceased minus the tax component, is to be added to the income of the deceased towards future prospects while computing compensation payable. Likewise, the widow and three children of the deceased are entitled to ₹40,000/- each on account of loss of spousal/parental consortium in accordance with the decision in **Pranay Sethi's** case (supra) as well as **Magma General Insurance Co. Ltd's** case (supra), however, in view of decision in **Vimla Devi's** case (supra), compensation on account of loss of spousal /parental consortium is restricted to ₹1,00,000/-. Further, since the deceased left behind 5 dependents, therefore, deduction on account of personal expenses of the deceased shall be made @ 1/4th of the income of the deceased as against @ 1/3rd made by the learned Tribunal.

9. 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	5206/-	5206/-
2	Future prospects	Nil	30% of 5206 =1561.80 rounded of to 1562/- 5206+1562=6768/-
3	Deduction towards personal expenses of deceased.	1/3rd=1736/-	1/4th =1692/-
4	Monthly	3470/- rounded off to	5076/-

PUSHPINDER SAINI
2019.07.18 11:07
I attest to the accuracy and
integrity of this document

	dependency	3500/-	
4	Multiplier applied	9	13
5	Loss of dependency	3500x12x9=3,78,000/-	5076x12x13=7,91,856/-
6	Loss of consortium	Nil	40,000/- to widow 40,000/- to each of the three children i.e. 1,20,000/- however, in view of Vimla Devi's case (supra), the loss of spousal and parental consortium is restricted to 1,00,000/-
7	Funeral expenses	Nil	15000/-
8	Loss of estate	Nil	15,000/-
9	Total	3,78,000/-	9,21,856/-

10. Accordingly, in the light of the position as noted above, the appellant-claimants are held entitled to award of compensation of ₹9,21,856/- as against compensation of ₹3,78,000/- 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.

11. Needless to mention, tax liability, if any, qua future prospects shall be deducted in accordance with the decision in **Pranay Sethi's** case (supra) and the apportionment of compensation amongst the appellants shall be in accordance with the ratio stipulated by the Tribunal after first making payment of compensation on account of loss of spousal/parental consortium to the widow and children of the deceased in equal proposition.

12. Accordingly, appeal is allowed. Award dated 22.11.2001 passed by the learned Tribunal is modified as above.

13. Copy of this order be sent to the appellants.

(B.S. WALIA)
JUDGE

February 13, 2019
ps

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

PUSHPINDER SAINI
2019.07.18 11:07
I attest to the accuracy and
integrity of this document