

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

**FAO No.2835 of 2006
Date of Decision :22.01.2019**

Harish Kumar and others

....Appellants

VERSUS

Iqbal Singh & others

...Respondents

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

Present: Mr. Ashok Jindal, Advocate for the appellants.

Mr. Sukhmeet Singh, Advocate for respondent No.1.

Service upon respondent No.2 dispensed with vide order dated 21.7.2017.

Mr. Neeraj Khanna, Advocate for respondent No.3-Insurance Company.

B.S. WALIA, JUDGE (ORAL)

1. Appeal has been filed by the two daughters and son of Sharwan Kumar, who died in a motor vehicular accident on 6.10.2004. The learned Motor Accidents Claims Tribunal, Moga (hereinafter referred to as 'the Tribunal'), taking into account the age of the deceased as 46 years, assessing his income as ₹3000/- per month, by applying multiplier of 10 and awarding ₹9500/- under conventional heads, awarded total compensation of ₹2,49,500/-.

2. Appeal has been filed seeking enhancement of compensation on the ground that despite entitlement, no future prospects have been awarded, multiplier of 10 applied is wrong and multiplier of 14 ought to have been

applied besides, the appellants are entitled to award of appropriate compensation on account of loss of estate, funeral expenses and loss of consortium.

3. Learned counsel for the appellants states that he does not press the claim with regard to enhancement of income of the deceased.

4. Learned counsel for the respondent-Insurance Company has fairly not opposed the claim on the aforementioned grounds in view of the decision of Hon'ble the Supreme Court in **National Insurance Company Limited vs. Pranay Sethi and others-2017(4) RCR (Civil) 1009**.

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

6. Admittedly, the deceased was 46 years of age, his income was assessed as ₹3000/- per month and deduction of 1/3rd of the income of the deceased was made on account of his personal expenses.

7. Since the deceased was 46 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 applicable in the case of persons in the age group of 46 to 50 is 13. Accordingly, as against the multiplier of 10, multiplier of 13 is held applicable. Secondly, as per paragraph No.61(iv) of the decision of Hon'ble the Supreme Court in **Pranay Sethi's** case (supra), since the deceased was between 46 to 50 years of age and was self employed, 25% of his established income minus the tax component is to be taken into account towards future prospects while computing the compensation payable.

8. As per paragraph No.61(viii) of the decision in **Pranay Sethi's** case (supra), a sum of ₹15,000/- is payable on account of funeral expenses, while like amount is payable on account of loss of estate and ₹40,000/- is payable

Hon'ble the Supreme Court in **Magma General Insurance Co. Ltd vs, Nanu Ram Alias Chuhru Ram**, 2018(4) RCR (Civil) 333, it has been held that children of the deceased are also entitled to compensation on account of loss of parental consortium. Accordingly, each of the three children are held entitled to loss of consortium @ ₹40,000/-. However, in subsequent decision of Hon'ble the Supreme Court in **Vimla Devi and others v. National Insurance Company Ltd. and others** 2019(1) RCR (Civil) 86, award of compensation on account of loss of spousal and parental consortium in the case of widow and two minor children of the deceased was kept at ₹1,00,000/-. Accordingly, in view of the decision of Hon'ble the Supreme Court in **Vimla Devi's** case (supra), compensation on account of loss of consortium in the instant case is restricted to ₹1,00,000/-.

9. Learned counsel for the appellants further contends that no amount was awarded on account of interest by mentioning that in case the amount was paid within two months from the date of award, no interest would be payable but if the same was paid thereafter, interest would be payable @ 9% per annum. Learned counsel contends that the appellants are entitled to award of interest on the compensation awarded by the Tribunal.

Since the appellants have been held entitled to award of compensation on account of wrongful act of the respondent-driver and owner of the offending vehicle and a number of years elapsed from the date of accrual of cause of action till the date of award, therefore, it would be in the fitness of things if the appellants are held entitled to award of compensation alongwith interest @ 7.5% per annum with effect from the date of claim petition till the date of payment.

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	3,000/-	3,000/-
2	Future prospects	Nil	25%=750/- 3000+750=3750/-
3	Deduction towards personal expenses of deceased.	1/3 rd =1000/-	1/3 rd =1250/-
4	Multiplier applied	10	13
5	Compensation awarded	2000x12x10=2,40,000/-	2500x12x13=3,90,000/-
6	General damages	9500/-	Nil
7	Loss of consortium	Nil	40,000/- to each child i.e. 1,20,000/- however, in view of Vimla Devi's case (supra), the loss of consortium is restricted to 1,00,000/-
8	Funeral expenses	Nil	15000/-
9	Loss of estate	Nil	15,000/-
10	Total	2,49,500/-	5,20,000/-

11. Accordingly, in the light of the position as noted above, the appellants are held entitled to the award of compensation of ₹5,20,000/- as against compensation of ₹2,49,500/- awarded by the learned Tribunal along with interest @ 7.5% per annum with effect from the date of claim petition till the date of payment less amount, if any, already paid.

12. 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.

13. Accordingly, appeal is allowed. Award dated 9.3.2006 passed by the learned MACT, Moga is modified to the extent as noted above.

January 22, 2019
ps

(B.S. WALIA)
JUDGE

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