[218] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.275 of 2008
Date of decision: 11.02.2019

Bijinder and others. ….. Appellants

Versus

Shri Mohan Lal and another. ….. Respondents

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

Present: Ms. Ekta Thakur, Advocate for the appellants.

Mr. Rajneesh Malhotra, Advocate for respondent No.2 - Insurance Company.

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B.S. WALIA, J. (ORAL).,

[1] Appeal is for enhancement of compensation of ₹ 18,62,600/- awarded by the learned Motor Accidents Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal') on account of the death of Narinder Kumar, who died in a motor vehicular accident on 23.06.2004.

[2] The learned Tribunal by taking into account the age of the deceased as 39 years and occupation as permanent government employee i.e. Assistant Engineer with Executive Engineer, Division No.2, CPWD, Kendriya Sadan, Sector 9, Chandigarh assessed his income as ₹ 14,513/- per month, made deduction of 1/3rd from the income of the deceased towards his personal expenses, applied multiplier of 16 and further by awarding ₹ 5000/- on account of last rites, awarded total compensation of ₹ 18,62,600/-.

[3] Learned counsel for the appellants contended that the appeal is liable to be allowed, award modified and compensation payable enhanced by

awarding future prospects besides appropriate compensation on account of conventional heads.

[4] Per contra, learned counsel for respondent No.2-Insurance Company contends that the learned Tribunal wrongly applied multiplier of 16 whereas as per the decision of Hon'ble the Supreme Court in **Sarla Verma vs Delhi Transport Corporation, 2009 ACJ 1298,** multiplier of 15 was applicable in view of the deceased being in the age group 36 to 40 years besides, 50% of the established income of the deceased was liable to be taken into account towards future prospects only after deduction of tax liability i.e. **@** ₹ 25,247/- as per the tax payable for the relevant assessment year in view of para 61(iii) of the decision of Hon'ble the Supreme Court in National Insurance Company Limited vs Pranay Sethi and others, 2017 (4) RCR (Civil) 1009. The tax liability as stated by learned counsel for the Insurance Company is not disputed by the counsel for the appellant.

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

[6] Admittedly, the deceased was 39 years of age. As per paragraph No.21 of the decision of Hon'ble the Supreme Court in **Sarla Verma'**s case (Supra), multiplier of 15 is applicable in case deceased is between the age group of 36 to 40 years. Since, the deceased in the instant case was 39 years of age, therefore, instead of multiplier of 16 applied by the learned Tribunal, multiplier of 15 will be applicable while computing the compensation payable.

[7] Further, the deceased being less than 40 years of age and being employed as permanent government servant in the Chandigarh Administration, 50% of his established income minus the tax component is liable to be taken into account towards future prospects while computing the

compensation payable in accordance with paragraph No.61 (iii) of the decision of Hon'ble the Supreme Court in **Pranay Sethi's** case (Supra). Accordingly, 50% of the established income of the deceased minus the tax component shall be taken into account towards future prospects while computing the compensation payable.

[8] A sum of ₹ 5000/- was awarded on account of last rites but no amount was paid on account of loss of estate 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 and ₹ 15,000/- on account of loss of estate. Accordingly, amount of ₹ 5000/- awarded on account of last rites or funeral expenses is enhanced to ₹ 15,000/-. However, since, no amount was awarded on account of loss of estate, therefore, the appellants are held entitled to ₹15,000/- on account of loss of estate.

[9] Likewise, as per the decision of Hon'ble the Supreme Court in **Magma General Insurance Co. Ltd. vs Nanu Ram @ Chuhru Ram and others, 2018 (4) RCR (Civil) 333** children of the deceased are held entitled to ₹ 40,000/- each on account of loss of parental consortium.

[10] In the light of the position as noted above, the compensation payable works out as under :-

Sr. No.	**Heads**	**Amount assessed by the Tribunal**	**Amount assessed by the Court**
1.	Monthly Income	₹ 14513 /-	₹ 14513/-
2.	Annual income	₹ 14513 /- x 12 = ₹ 1,74,156/-	₹ 14513 /- x 12 = ₹ 1,74,156/-
3.	Deduction of tax	-	₹ 25247/-
4.	Net annual income	₹ 1,74,156/-	₹ 1,48,909/-
5.	Future Prospects	Nil	50% of ₹ 1,48,909/- = ₹ 74454.5/-.
6.	Total Income Assessed	₹ 1,74,156/-	₹ 2,23,363.50/-

7.	Deduction (towards personal expenses of deceased)	1/3rd of ₹ 1,74,156/- = ₹ 58,052/-	1/3rd of ₹ 223,363.5/- = ₹ 74454.5/-
8.	Dependency (Annual)	₹ 1,16,104/- (wrongly recorded by the Tribunal as ₹ 1,16,100/-)	₹ 1,48,909/-
9.	Multiplier applied	16	15
10.	Compensation awarded by applying multiplier	₹ 1,16,104/- x 16 = ₹ 18,57,664/- (wrongly recorded by the Tribunal as ₹ 18,57,600/-)	₹ 1,48,909/- x 15 = ₹ 22,33,635/-
11.	Loss of parental consortium	NIL	₹ 40,000/- to each of the two then minor children (Total ₹ 80,000/-)
12.	Funeral Expenses	₹ 5,000/-	₹ 15,000/-
13.	Loss of Estate	NIL	₹ 15,000/-
14.	Rate of interest	7.5 % per annum	7.5% per annum
15.	Total	₹18,62,664/- (Wrongly calculated as ₹ 18,62,600/-).	**₹ 23,43,635/-**

[11] Accordingly, as against compensation of ₹ 18,62,600/- awarded by the Tribunal, the mother and children (i.e. appellant Nos.3 to 5) of the deceased are held entitled to compensation of **₹ 23,43,635/-** along with interest @ 7.5% per annum on the enhanced amount with effect from the date of claim petition till date of payment, less payment, if any, made earlier, in view of the fact that no cogent evidence was led before the learned Tribunal to establish that the father of the deceased was dependent upon the

deceased and in the circumstances, cannot be held to be dependent on his son as he was likely to have his own income in view of the decision of Hon'ble the Supreme Court in **Sarla Verma's** case supra. Therefore, only the mother and the two minor children of the deceased are held entitled to payment of enhanced compensation. Enhanced compensation payable shall be apportioned in favour of the mother, daughter and son of the deceased in the ratio of 15%, 42 ½ % and 42 ½ % respectively after payment of compensation on account of loss of consortium to the children of the deceased.

[12] Accordingly, appeal is allowed by modifying Award dated 20.09.2007 passed by the learned Motor Accidents Claims Tribunal, Chandigarh to the extent as noted above.

(B.S. WALIA)
JUDGE

11.02.2019
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1. Whether speaking/reasoned : Yes/No.
2. Whether reportable : Yes/No.