IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.3785 of 2011
Date of Decision: 06.03.2019.

Anita and others. ...Appellants

Versus

Khush Pal and others. ....Respondents

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

Present: Mr. R.N. Singal, Advocate for
Mr. Rajender Singh, Advocate for the appellants.

None for respondent Nos.1 and 2.
Mr. Sanjeev Goyal, Advocate for respondent No.3.

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<u>B.S.WALIA, J (Oral)</u>.

1. Appeal has been filed by the widow, 3 minor children and mother of deceased Sahab Singh, who died in a motor vehicular accident on 29.10.2007, seeking enhancement of compensation of ₹14,20,000/- awarded by the learned Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'the Tribunal').

2. The learned Tribunal by taking into account the age of the deceased as 45 years, by assessing income of the deceased as ₹2000/- per month, by applying multiplier of 12, worked out dependency @ ₹2,88,000/-, besides awarded a sum of ₹11 lakh on account of medical treatment expenses and consolidated sum of ₹32000/ on account of transportation, loss of love and affection, consortium etc. total ₹14,20,000/-

3. Learned counsel for the appellants contended that admittedly the appellant was an agriculturist and having land in his name, therefore, could not be treated as an unskilled labourer particularly in view of the fact that an agriculturist farmer is more than a labourer since he has knowledge of

farming/agricultural activities. Learned counsel further contended that in the circumstances, the minimum wages of the relevant period as applicable in the case of a semi-skilled worker i.e. ₹3640/- per month as admissible under the notification issued under the Minimum Wages Act, 1948, were liable to be taken into account for working out the compensation payable. Learned counsel further contended that in view of age of the deceased being '45' years, multiplier of '14' ought to have to be taken into account as against multiplier of '12'. Learned counsel further contended that since the deceased left behind five dependents i.e. wife, three children and mother, therefore, deduction was required to be made @ 1/4th of the income of the deceased besides future prospects were to be added @ 25% of the established income of the deceased. Lastly learned counsel prays for award of appropriate compensation under the conventional heads.

4. Photocopy of the notification issued under the Minimum Wages Act, reflecting the minimum wages of a semi-skilled worker @ ₹3640/- per month for the relevant period duly signed by learned counsel for the appellants is taken on record and copy thereof handed over to the learned counsel for respondent No.3/Insurance Company, who does not dispute the correctness of the same or assessment of income of the deceased as a semi-skilled worker.

5. Admittedly, the deceased was 45 years of age. As per paragraph No.61 (iv) of the decision of Hon'ble the Supreme Court in Pranay Sethi's case (supra), where the deceased was self employed and between the age of 40 to 50 years of age, 25% of the established income of the deceased minus tax component is to be added to the income on account of future prospects while computing compensation.

6. As per paragraph No.30 of the decision of Hon'ble the Supreme Court in Sarla Verma's case (supra), where the deceased left behind 4 to 6 dependents, deduction towards personal expenses of the deceased is to be made @ 1/4th of the income of the deceased.

7. As per paragraph No.21 of the decision of Sarla Verma'a case (supra), multiplier applicable in the case of a deceased aged 45 years is '14'.

8. 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 spousal consortium and funeral expenses.

9. Learned counsel for respondent No.3/Insurance Company fairly does not dispute the claim for enhancement as made by learned counsel for the appellants in the light of notification under the Minimum Wages Act as also 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 and Sarla Verma Vs. Delhi Transport Corp. and another, 2009 (3) RCR (Civil) 77**.

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

11. Accordingly, in the light of position noted above, 25% of the established income of the deceased minus tax component is ordered to be added to the income of the deceased on account of future prospects while computing compensation, deduction is ordered @ 1/4th of the income of the deceased towards his personal expenses, besides multiplier of '14' would be applied as against multiplier of '12' as ordered by the learned Tribunal.

Likewise, the appellants are held entitled to award of ₹15,000/- on account of loss of estate, ₹15,000/- on account of funeral expenses and Rs.40,000/- on account of loss of spousal/parental consortium.

12. At this stage, learned counsel for the appellants further contends that although a sum of ₹11 Lakh was awarded on account of medical treatment yet a sum of ₹23,000/- incurred on account of medical expenses during treatment of the deceased in Prem Hospital, Panipat has not been added in the aforementioned sum of ₹11 Lakh despite evidence in respect thereof being available on record in the shape of testimony of PW-3, who produced original record in respect thereto. The respondent has not controverted the aforementioned claim for reimbursement of additional sum of ₹23,000/- on account of medical expenses in addition to ₹11 Lakh.

13. 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	₹2000/-	₹3640/-
2	Future Prospects	Nil	25% of ₹3640/- = ₹910/.
3.	Total Income	₹2000/-	₹4550/-
4.	Multiplier applied	12	14
5.	Deduction	Nil.	1/4th of ₹4550/- i.e. ₹1137/-
6.	Dependency	₹2000x12x12=₹2,88,000/-	₹3413x12x14=₹5,73,384/-
7.	Funeral Expenses	Rs.32,000/- (consolidated)	₹15,000/- (Funeral Expenses)
8.	Loss of Estate		₹15,000/- (Loss of Estate)
9.	Loss of Consortium		₹40,000/- (Loss of consortium)
10.	Treatment Expenses	11,00,000/-	11,23,000/-
	Total	₹14,20,000/-/-	₹17,66,384/-

14. Accordingly, as against the compensation of ₹14,20,000/- awarded by the learned Tribunal, Karnal the appellants are held entitled to award of compensation of ₹17,66,384 along with interest @ 6% per annum w.e.f. the date of filing of the claim petition till date of payment, less amount if any already paid.

15. Needless to mention, the appellants would be entitled to award of compensation in proportion to their shares as determined by the learned Tribunal, Karnal, besides, the Insurance Company would deduct tax liability, if any, qua future prospects in accordance with the decision in Pranay Sethi's case.

16. Accordingly, appeal is allowed and award dated 17.11.2010, passed by the learned Tribunal, Karnal, is modified to the extent as noted above.

(B.S.WALIA)
JUDGE

06.03.2019.
rajesh.k.khurana

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