IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.743 of 2012
Date of Decision: 15.01.2019

Ritu and another

...Appellants

Versus

Irfan and others

....Respondents

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

Present: Mr. N.K. Malhotra, Advocate for the appellants.

Mr. Sandeep Sharma, Advocate for respondent No.1.

Service of respondent No.2 dispensed with vide order dated 27.01.2015.

Mr. D.P. Gupta, Advocate for respondent No.3.

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B.S.WALIA, J (Oral).

1. Appeal has been filed by the widow and mother of the deceased seeking enhancement of compensation of ₹7,50,000/- awarded on account of death of Suraj, in a motor vehicular accident on 13.12.2009.

2. The learned Motor Accidents Claims Tribunal, Rohtak (hereinafter referred as to ‘the Tribunal’) by treating the deceased as a labourer assessed his income at ₹3914/- per month as per notification issued under the Minimum Wages Act and added ₹1186/- per month on account of agricultural income, deducted 1/3rd of the income of the deceased towards his personal expenses, applied multiplier of ‘18’ and further by awarding ₹5600/- on account of funeral expenses and

transportation charges, ₹10,000/- on account of loss of consortium and loss of estate, awarded total compensation of ₹7,50,000/-.

3. Learned counsel for the appellants contends that the appeal is liable to be allowed, award modified and compensation enhanced on the ground that despite entitlement no amount had been added towards future prospects while computing compensation and further that the amount awarded under conventional heads was also on the lower side.

4. Learned counsel for the respondent/Insurance Company fairly does not dispute the claim for enhancement as made by learned counsel for the appellants 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.

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

6. Admittedly the deceased was 22 years of age and was self-employed, therefore, in view of paragraph No.61 (iv) of the decision in Pranay Sethi's case (supra), 40% of the established income of the deceased less tax component is to be added on account of future prospects while computing compensation.

7. As regards appropriate compensation under conventional heads, 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. However, no amount is payable on account of loss of transportation charges.

8. Accordingly, the appellants are held entitled to award of ₹15,000/- on account of loss of estate as also ₹15,000/- on account of funeral expense besides appellant No.1-wife is held entitled to ₹40,000/- on account of loss of spousal consortium.

9. 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	₹5100/-	₹5100/-
2	Future Prospects	Nil	₹2040/- i.e. 40% of ₹5100/-
3.	Total Income	₹5100/-	₹7140/-
4.	Deduction	1/3rd of ₹5100=₹1700/-	1/4th of ₹7140/-=₹2380/-
5.	Multiplier applied	18	18
6.	Annual Dependency	₹3400x12x18=₹7,34,400/-	₹4760x12x18=₹10,28,160/-
7.	Funeral expenses and transportation charges	₹5600/-	₹15,000/- on account of funeral expenses.
8.	Loss of consortium and loss of estate	₹10,000/-	₹15,000/- on account of loss of estate and ₹40,000/- towards loss of spousal consortium to appellant No.1.
	Total	₹7,50,000/-	₹10,98,160/-

10. Accordingly, as against the compensation of ₹7,50,000/- awarded by the Tribunal, the appellants/claimants are held entitled to award of compensation of ₹10,98,160/- along with interest @ 7.5% per annum w.e.f. the date of filing of the claim petition till date of payment, less amount if any already paid.

11. Needless to mention, the appellants would be entitled to the award of compensation in proportion to their shares determined by the Tribunal after first making payment of ₹40,000/- towards loss of spousal

consortium to appellant No.1. The Insurance Company shall make the payment to the appellants after making deduction of the tax liability, if any, qua future prospects, in accordance with the decision of Hon'ble the Supreme Court in Pranay Sethi's case (supra).

12. Accordingly, appeal is allowed and award dated 09.03.2011 passed by the learned Tribunal, Rohtak, is modified to the extent as noted above.

(B.S.WALIA)
JUDGE

15.01.2019
rajesh.k.khurana

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