IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

226 **FAO No.10097 of 2014 (O&M)**
Date of Decision : 26.03.2019

GANITA DEVI AND ANOTHER
....APPELLANTS

V/S

MUMTAZ AHMED AND OTHERS
....RESPONDENTS

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

Present: Ms. Amandeep Kaur, Advocate for
Mr. Ashwani Arora, Advocate
for the appellants.

None for respondent No.2.

Mr. Abhishek Goyal, Advocate for
Mr. Pardeep Goyal, Advocate
for respondent No.3/*Insurance Company*.

B.S. WALIA, J. (ORAL)

CM No.27873-CII of 2014

For the reasons as are mentioned in the application, the same is **allowed**. Delay of 11 days in re-filing the appeal is condoned, subject to all just exceptions.

FAO No.10097 of 2014

[1] Appeal has been filed by the parents of Parveen Kumar Giri, who died in a motor vehicular accident on 29.02.2012, praying for enhancement of compensation of Rs.4,01,000/-, awarded by the learned Motor Accidents Claims Tribunal, Chandigarh (hereinafter referred to as 'the Tribunal') on the ground that no amount had been awarded on account of future prospects.

[2] Learned counsel for respondent No.3/Insurance Company, while not disputing the claim of the appellants for addition of 40% of the established income of the deceased towards future prospects contended that Rs.50,000/- awarded on account of loss of love and affection was not payable.

[3] Faced with the aforementioned situation, learned counsel for the appellants contended that the appellant was entitled to Rs.15,000/- on account of funeral expenses and like amount on account of loss of estate.

[4] Learned counsel for the appellants further contended that since the deceased was '18' years of age, multiplier of '14' was wrongly applied and it was multiplier of '18' which was required to be applied.

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

[6] Admittedly, the deceased was 18 years of age. His notional income was assessed as Rs.4000/- per month. Therefore, as per paragraph No.61(iv) of the decision of Hon'ble the Supreme Court in '***National Insurance Company Limited*** *versus* ***Pranay Sethi and others***', *2017(4) RCR (Civil) 1009*, 40% of the established income of the deceased minus the tax component is to be added towards the total income on account of future prospects payable.

[7] Learned counsel for the parties are also in agreement that the income of the deceased was below the taxable limit. Therefore, no income tax was payable. Further as per paragraph No.21 of the decision of Hon'ble the Supreme Court in '***Sarla Verma and others*** *versus* ***Delhi Transport Corporation and another***', *2009(6) SCC 121*, on account of deceased being 18 years of age, it is multiplier of '18' which is applicable instead of multiplier of '14' which was applied. As per paragraph No.61(viii) of the decision of

Hon'ble the Supreme Court in '***Pranay Sethi's*** *case (supra)*, Rs.15,000/- is payable on account of funeral expenses and Rs.15,000/- on account of loss of estate. However, no amount is payable on account of loss of love and affection. In the light of the position as noted above, the appellants are held entitled to the following compensation:-

Particulars	**Assessed by the Tribunal (in ₹)**	**Re-assessed by the High Court (in ₹)**
Income assessed	4000	4000
Add:Future Prospects	NIL	40% of 4000 = 1600
Deductions	50% of 4000 = 2000	50% of 5600 = 2800
Total Income	2000	2800
Multiplier	14	18
Dependency	2000 x 12 x 14 = 3,36,000/-	2800 x 12 x 18 =6,04,800/-
Loss of love & affection	50,000/-	NIL
Funeral Expenses	15,000/-	15,000/-
Loss of Estate	NIL	15,000/-
Total Compensation	**4,01,000/-**	**6,34,800/-**

[8] Accordingly, as against compensation of ₹ 4,01,000/-, awarded by the learned Tribunal, Chandigarh, the appellants are held entitled to award of ₹ 6,34,800/- along with interest @ 7.5% per annum with effect from date of claim petition, till date of payment, less payment if any, already made. Accordingly, the appeal is **allowed**, award dated 10.03.2014, passed by the learned Tribunal, Chandigarh, is **modified** to the extent as noted above.

(B.S. WALIA)
JUDGE

March 26, 2019
'Rajneesh'

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