IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CM No.28739-40-CII of 2014 in/and
FAO No.10436 of 2014
Date of Decision: 13.03.2019.

Manjit Kaur and others ...Appellants

Versus

Ramesh Kumar and others ....Respondents

Coram : Hon'ble Mr. Justice B.S.Walia

Present: Mr. Parvez Chugh, Advocate for the appellants.
Mr. Gurpreet Jayia, Advocate for respondent Nos.1 and 2.
Mr. Nikunj Dhawan, Advocate for respondent No.3

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B.S.WALIA, J (Oral).

CM No.28739-CII of 2014

Mr. Gurpreet Jayia, Advocate has put in appearance on behalf of respondent Nos.1 and 2 and filed vakalatnama while Mr. Nikunj Dhawan, Advocate has put in appearance on behalf of respondent No.3 and filed memo of appearance. The same are taken on record.

For the reasons as are mentioned in the application, the same is allowed. Delay of 22 days in refiling of the appeal is condoned subject to all just exceptions.

CM No.28740-CII of 2014

Learned counsel for respondent No.3/Insurance Company states that he does not oppose the application seeking condonation of delay subject to the condition that interest which has been awarded by the learned

Tribunal is not enhanced. The same is acceptable to learned counsel for the appellants.

For the reasons as are mentioned in the application as well as statement of learned counsel for respondent No.3/Insurance Company as well as the appellants, the application is allowed. Delay of 511 days in late filing of the appeal is condoned subject to all just exceptions.

FAO No.10436 of 2014

1. Appeal has been filed by the wife and three minor children of Major Singh, who died in a motor vehicular accident on 01.05.2011. Prayer is for enhancement of compensation of ₹7,40,000/-, awarded by the learned Motor Accidents Claims Tribunal, Ferozepur (hereinafter referred to as 'the Tribunal').

2. The learned Tribunal by taking into account the age of the deceased as 32 years and by treating the deceased as unskilled labourer assessed his monthly income as ₹5,000/- and thereafter by applying multiplier of '16' and making deduction of $1/4^{th}$ of the income of the deceased towards his personal expenses besides by awarding a sum of ₹5,000/- on account of funeral expenses, ₹5,000/- on account of loss of estate and ₹10,000/- on account of loss of consortium, awarded total compensation of ₹7,40,000/-.

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 and appropriate compensation under the conventional heads.

4. Per contra, learned counsel for respondent No.3/Insurance Company has not opposed the fair claim of the appellants.

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

6. Admittedly, the deceased was 32 years of age, self employed and his monthly income was taken as ₹5,000/-. As per paragraph No.61 (iv) of the decision of Hon'ble the Supreme Court in National Insurance Company Ltd. versus Pranay Sethi and others, 2017(4) RCR (Civil) 1009, where the deceased was self employed and less than 40 years of age, 40% of the established income of the deceased minus tax component is to be added to the income of the deceased on account of future prospects while computing compensation.

Since in the instant case the deceased was 32 years of age and self employed, 40% of the established income of the deceased minus tax component is to be added to the income of the deceased on account of future prospects while computing compensation.

7. As regards appropriate compensation under conventional heads, it needs mention that 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.

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

8. 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	₹5000/-	₹5000/-
2	Future Prospects	Nil	₹2000/ i.e. 40% of ₹5000/-
3.	Total Income	₹5000/-	₹7000/-
4.	Multiplier applied	16	16
5.	Deduction	1/4th of ₹5000/- i.e. ₹1250/-	1/4th of ₹7000/- i.e. ₹1750/-
6.	Dependency	₹3750x12x16=₹7,20,000/-	₹5250x12x16=₹10,08,000/-
7.	Funeral Expenses	₹5000/-	₹15,000/-
8.	Loss of Estate	₹5000/-	₹15,000/-
9.	Loss of Consortium	₹10,000/-	₹40,000/-
	Total	₹7,40,000/-/-	₹10,78,000/-

9. Accordingly, as against the compensation of ₹7,40,000/- awarded by the Tribunal, the appellants are held entitled to award of compensation of ₹10,78,000/- 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.

10. Needless to mention, the appellants would be entitled to award of compensation in proportion to their shares determined by the Tribunal.

11. Accordingly, appeal is allowed. Award dated 02.11.2012, passed by the learned Tribunal, Ferozepur, is modified to the extent as noted above.

(B.S.WALIA)
JUDGE

13.03.2019.
rajesh.k.khurana

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