**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO No.1091 of 2014 (O&M)
Date of decision: 26.02.2019

Harjit Kaur and others. ….. Appellants

Versus

Mohd. Harun and others. ….. Respondents

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

Present: Mr. Dheeraj Narula, Advocate for the appellants.
Mr. Mrigank Sharma, Advocate for respondent No.3.

***

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

**CM No.3622-CII of 2014**

For the reasons as are mentioned in the application, the same is allowed. Delay of 133 days in filing the appeal is condoned subject to all just exceptions.

**FAO No.1091 of 2014**

[1] Appeal has been filed by the widow, son, daughter and mother of Nachhatar Singh who died in a motor vehicular accident on 02.04.2011.

[2] Prayer is for enhancement of compensation of ₹ 7,05,853/- awarded by the learned Motor Accidents Claims Tribunal, Sangrur (hereinafter referred to as 'the Tribunal') to the appellants.

[3] Learned counsel for the appellants contends that the appeal is liable to be allowed, award modified, compensation payable enhanced by awarding appropriate compensation under the conventional heads, besides, by taking into account 40% of the established income of the deceased minus the tax component towards future prospects while computing the compensation payable.

[4] Per contra, learned counsel for respondent No.3/Insurance Company has fairly not disputed the claim for enhancement.

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

[6] Admittedly, the deceased was 39 years of age and was self-employed. His income was assessed as ₹ 5000/- per month. Thereafter, the learned Tribunal by applying multiplier of 15 and by making deduction @ 1/4th from the income of the deceased towards his personal expenses awarded total compensation of ₹ 7,05,853/-.

[7] Since, the deceased was 39 years of age, therefore, as per paragraph No.61 (iv) of the decision of Hon'ble the Supreme Court in **National Insurance Company Limited vs Pranay Sethi and others, 2017 (4) RCR (Civil) 1009,** 40% of the established income of the deceased minus the tax component is to be taken into account towards future prospects while computing the compensation payable. Secondly, as per paragraph No.61 (viii) of the aforementioned decision a sum of ₹ 40,000/- is payable on account of spousal consortium while ₹ 15,000/- is payable on account of funeral expenses and like amount on account of loss of estate as against sum of ₹ 25,000/- awarded by the tribunal on account of loss of consortium and funeral expenses.

[8] Learned counsel for the appellants further contends that interest awarded @ 6% per annum is on the lower side and minimum interest of 9% per annum ought to have been awarded in view of decision of Hon'ble the Supreme Court in **Smt. Neeta, W/o Kallappa Kadolkar and others vs The Division Manager, MSRTC, Kolhapur, 2015 (3) SCC 590** which pertains to an accident dated 24.03.2011and in the instant case the accident took place on 02.04.2011.

Hon'ble the Supreme Court in Smt. Neeta's case (Supra) by relying upon its earlier decision in **Municipal Corporation of Delhi, Delhi v. Uphaar Tragedy Victims Association & Ors., 2011 (14) SCC 481** was pleased to increase the rate of interest awarded from 8% to 9% per annum in the case of accident of the year 2011. Since the accident in the instant case is also of the year 2011, rate of interest payable is enhanced from 6% to 9% per annum.

[9] In the light of the position as noted above, the appellants are held entitled to the following compensation:-

| **Sr. No.** | **Heads** | **Amount assessed by the Tribunal** | **Amount assessed by the Court** |
|---|---|---|---|
| 1. | Income | ₹ 5000/- | ₹ 5000/- |
| 2. | Future Prospects | Nil | 40% of ₹ 5000/- = ₹ 2000/- |
| 3. | Total Income Assessed | ₹ 5,000/- | ₹ 5000/- + ₹ 2000/- = ₹ 7000/- |
| 4. | Multiplier applied | 15 | 15 |
| 5. | Deduction (towards personal expenses of deceased) | 1/4th of ₹ 5,000/- ₹ 1250/- | 1/4th of ₹ 7000/- = ₹ 1750/- |
| 6. | Dependency (Annual) | ₹ 5000/ - ₹ 1250/ = ₹ 3750/-<br>₹ 3750/- x 12 = ₹ 45000/- (Annually) | ₹ 7000/- ₹ 1750/-) = ₹ 5250/-<br>₹ 5250/- x 12 = ₹ 63000/- (Annually) |
| 7. | Compensation awarded by applying multiplier | ₹ 45000/- x 15 = ₹ 6,75,000/- | ₹ 63000/- x 15 = ₹ 9,45,000/- |

| | | | |
|---|---|---|---|
| 8. | Medical Expenses | ₹ 30,853/- | ₹ 30,853/- |
| 9. | Loss of consortium & Funeral Expenses | ₹ 25,000/- | ₹ 40,000/- (consortium) + ₹ 15,000/- (Funeral Expenses) |
| 10. | Loss of Estate | NIL | ₹ 15,000/- |
| 11. | Rate of interest | 6 % per annum | 9 % per annum |
| **Total** | | **₹ 7,30,853/-** (wrongly assessed as ₹ 7,05,853/-) | **₹ 10,45,853/-** |

[10] Accordingly, as against compensation of ₹ 7,30,853/- (wrongly assessed as ₹ 7,05,853/-) awarded by the learned Tribunal, Sangrur along with interest @ 6 % per annum, the appellants are held entitled to compensation of **₹ 10,45,853/-** along with interest @ 9 % per annum on the enhanced amount with effect from the date of claim petition till date of payment, less payment, if any, made earlier

[11] Needless to mention, the Insurance Company shall deduct income tax liability, if any, qua future prospects in accordance with the decision in Pranay Sethi's case (supra).

[12] Accordingly, appeal is allowed by modifying Award dated 18.04.2013 passed by the learned Tribunal, Sangrur to the extent as noted above.

(B.S. WALIA)
JUDGE

26.02.2019
amit

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