IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.1160 of 2016 (O&M)
Date of Decision :07.03.2019

Surinder Kaur and another. ....Appellants

VERSUS

Tarlochan Singh and another. ...Respondents

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

Present: Mr. Ashwani Arora, Advocate for the appellants.

Mr. Aman Mittal, Advocate for Mr. A.S. Sidhu, Advocate for respondent No.2-Insurance Company.

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B.S. Walia, Judge (Oral).,

1. Appeal has been filed by the widow and son of Surinderpal Singh, who died in a motor vehicular accident on 07.01.2015. Prayer is for enhancement of compensation by taking into account the correct salary of the deceased i.e. ₹ 76,606/- instead of ₹70,000/- taken into account by the learned Motor Accident Claims Tribunal, Patiala (hereinafter referred to as the Tribunal) contrary to the record i.e. salary slip Ex. P/7 as also by taking into account, 15% of the established income of the deceased for working out compensation towards future prospects.

2. The learned Tribunal by taking the occupation of the deceased as Assistant Engineer in the Irrigation Department, Government of Punjab, by taking his age as 58 years, carry home salary as ₹70,000/- per month, multiplier of 9, by applying deduction of 1/3rd and by awarding ₹100,000/- on account of loss of consortium, ₹100,000/- on account of loss of love and

affection and ₹10,000/- on account of last rites, awarded total compensation of ₹52,50,000/-.

2. Learned counsel for respondent No.2-Insurance Company does not controvert the claim of the appellants for enhancement of compensation by taking into account monthly salary of ₹ 76,606/- as per salary slip Ex. P/7. However, learned counsel contends that income tax on the annual income i.e. ₹9,19,272/- works out to ₹ 1,12,120/- as per the income tax slab of the relevant year, besides, compensation of ₹1,00,000/- awarded on account of loss of consortium to appellant No.1 could not be more than ₹40,000/- in view of paragraph No. 61(viii), while ₹1,00,000/- awarded on account of loss of love and affection could not be awarded in view of paragraph No. 54 of the decision of Hon'ble the Supreme Court in **National Insurance Company Limited vs Pranay Sethi and others-2017(4) RCR (Civil) 1009.**

3. Faced with the aforementioned situation, learned counsel for the appellants does not dispute the deduction of income tax as per calculation above or that no amount is payable on account of loss of love and affection, besides, compensation on account of loss of spousal consortium is to be awarded @ ₹40,000/- as against ₹1,00,000/- awarded, yet learned counsel contends that as against ₹10,000/- awarded on account of last rites, the appellants are entitled to ₹15,000/- on account of last rites besides, ₹15,000/- on account of loss of estate.

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

5. Admittedly, the deceased was 58 years of age and was working as an Assistant Engineer in the Irrigation Department, Government of Punjab. As per paragraph No.61(iii) of the decision of Hon'ble the Supreme Court in Pranay Sethi's case (supra), where deceased was working on a permanent job and was between the age of 50 to 60, 15% of the established income of the deceased minus the tax component is to be taken into account while computing compensation payable on account of future prospects. Secondly, no amount is payable on account of loss of love and affection in view of paragraph No. 54 of the decision in Pranay Sethi's case (supra).

6. Further, as per paragraph No.61(viii) of the decision in **Pranay Sethi's** case (supra), ₹40,000/- is payable on account of loss of spousal consortium as against ₹1,00,000/- awarded by the learned Tribunal and as against ₹10,000/- awarded on account of last rites a sum of ₹15,000/- is payable on account of funeral expenses besides ₹15,000/- on account of loss of estate. Moreover, in view of salary slip Ex. P/7, monthly income of the deceased is to be taken into account @ ₹76,606/- instead of ₹70,000/- taken into account as the carry home salary of the deceased.

7. Accordingly, in the light of the position as noted above, the appellants are held entitled to the following compensation:

Sr. No.	**Head**	**Amount assessed by Tribunal in ₹**	**Amount assessed by this Court in ₹**
1	Monthly Income	70,000/-	76,606/-
2	Annual income	-	76,606x12=9,19,272/-
3	Annual income less tax liability	-	9,19,272/- -1,12,120/- (calculation as agreed to by counsel for the parties as per income tax slab for the relevant year)= 8,07,152/- .
4	Future prospects	Nil	15% (8,07,152/- +1,21,073/- = 9,28,225/-)

5	Deduction towards personal expenses of deceased.	1/3rd =23333.33 (rounded off to 23333/-)	1/3rd =3,09,408/-
6	Multiplier applied	9	9
7	Compensation awarded	46667x12= 560004/- (rounded off to 5,60000/- x9=50,40,000/-	6,18,817x9=55,69,353/-
8	Loss of love and affection	1,00,000/-	Nil
9	Loss of spousal consortium	1,00,000/-	40,000/-
10	Funeral expenses	10,000/-	15000/-
11	Loss of estate	Nil	15,000/-
12	Total	52,50,000/-	56,39,353/-

8. Accordingly, in the light of the position as noted above, the appellants are held entitled to award of compensation of ₹56,39,353/- as against compensation of ₹52,50,000/- awarded by the learned Tribunal along with interest @ 7.5% per annum on the enhanced amount with effect from the date of claim petition till date of payment less amount, if any, already paid.

9. Needless to mention, apportionment of compensation amongst the appellants shall be in accordance with the ratio stipulated by the Tribunal after first making payment on account of loss of spousal consortium to the widow of the deceased.

10. Accordingly, appeal is allowed. Award dated 17.10.2015 passed by the learned Motor Accident Claims Tribunal, Patiala is modified to the extent as noted above.

(B.S. Walia)
Judge

March 07, 2019
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No