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

FAO No.4495 of 2013
Date of Decision: 08.02.2019.

Reena Devi and others

...Appellants

Versus

Ashok Paswan and others

....Respondents

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

Present: Mr. Vivek Suri, Advocate for the appellants.

Mr. Sushil Sharma, Advocate for respondent Nos.1 and 2.

Mr. R.C Gupta, Advocate for respondent No.3.

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B.S.WALIA, J (Oral).

1. Appeal has been filed by the widow and two daughters of deceased, Jai Parkash, who died in a motor vehicular accident on 02.01.2011, seeking enhancement of compensation of ₹9,65,000/-, awarded by the learned Motor Accidents Claims Tribunal, Panchkula, (hereinafter referred to as 'the Tribunal')

2. Learned counsel for the appellants contended that although the deceased was 27 years of age and the multiplier applicable was correctly noted as '17' but while working out the compensation payable, the same had been calculated by applying the multiplier of '14'. Secondly that compensation awarded on account of conventional heads was not appropriate.

3. Per contra, learned counsel for the respondentNo.3-Insurance Company while not disputing the claim for applying the multiplier of '17' instead of '14' contends that addition towards future prospects had been wrongly made @ 50% as against the requirement of taking into account @ 40% of the established income of the deceased.

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

5. Admittedly, the deceased was 27 years of age. 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 on account of future prospects while computing compensation.

Since in the instant case the deceased was 27 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.

6. Secondly, as per paragraph No.21 of the decision of Sarla Verma Vs. Delhi Transport Co-op. and another, 2009 (3) RCR (Civil) 77, multiplier applicable in the case of a deceased aged 27 years is '17'. Although, the learned Tribunal has rightly considered that multiplier of '17' is applicable, however, while computing compensation payable,

multiplier of '14' has been applied. In the circumstances, it is held that multiplier of '17' would be applicable instead of '14'.

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.

8. After taking into account the decision rendered in Pranay Sethi's case (supra), Hon'ble the Supreme Court in a subsequent decision in Magma General Insurance Co. Ltd vs. Nanu Ram Alias Chuhru Ram, 2018 (4) RCR (Civil) 333, held that each of the children of the deceased were entitled to loss of parental consortium @ ₹40,000/-.

Accordingly, the appellants and proforma respondent Nos. 4 and 5 are held entitled to award of ₹15,000/- on account of loss of estate and ₹15,000/- on account of funeral expenses. Besides the appellants are held entitled to award of ₹40,000/- each on account of loss of spousal/parental consortium, however, no amount is payable on account of filial consortium in view of the deceased being married. Further, in view of the subsequent decision of Hon'ble the Supreme Court in Vimla Devi and others vs. National Insurance Company Ltd. and others 2019 RCR (1) (Civil) 86, compensation of ₹1,20,000/- on account of loss of spousal/parental consortium is restricted to ₹1,00,000/-.

9. In the circumstances, the appellants/claimants i.e. widow and two minor children as well as parents of the deceased, 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	₹2500/- i.e. 50% of ₹5000)	₹2000/- i.e. 40% of ₹5000)
3.	Total Income	₹7500/-	₹7000/-
4.	Multiplier applied	14	17
5.	Deduction	1/4th of ₹7500/- i.e. ₹1875/-	1/4th ₹7000/- i.e. ₹1750/-
6.	Dependency	₹5625x12x14=₹9,45,000/-	₹5250x12x17=₹10,71,000/-
7.	Funeral Expenses	₹5,000/-	₹15,000/-
8.	Loss of Estate	₹5,000/-	₹15,000/-
9.	Loss of Consortium	₹10,000/-	Compensation awarded on account of loss of consortium is restricted to ₹1 Lakh in view of the decision in Vimla Devi's case (supra)
10.	Interest	7.5% per annum	7.5% per annum
	Total	₹9,65,000/-	₹12,01,000/-

10. Accordingly, as against the compensation of ₹9,65,000/- awarded by the Tribunal, the appellants and proforma respondent Nos.4 and 5 are held entitled to award of compensation of ₹12,01,000/- along with interest @ 7.5% per annum on enhanced amount 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 and proforma respondent Nos.4 and 5 would be entitled to the award of compensation in proportion to their shares determined by the Tribunal after first making payment of ₹1,00,000/- towards loss of spousal/parental consortium to the wife and children of the deceased i.e. appellant Nos.1 to 3. The Insurance Company shall make the payment to the appellants and proforma respondent Nos.4

and 5 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 14.05.2013, passed by the learned Tribunal is modified to the extent as noted above.

(B.S.WALIA)
JUDGE

08.02.2019
rajesh.k.khurana

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