IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.4200 of 2015 (O&M)
Date of Decision : 07.01.2019

Kamlesh & anr.

....Appellants

VERSUS

Mahesh Yadav & others

...Respondents

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

Present: Mr. Rajvir Singh Sihag, Advocate for the appellants.

Mr. Sandeep Suri, Advocate
for respondent No.3-Insurance Company.

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B.S. WALIA, JUDGE (ORAL)

1. Appeal has been filed seeking enhancement of compensation on account of death of appellants' son Roshan Yadav in a motor vehicular accident on 29.10.2013. The learned Motor Accidents Claims Tribunal, Rewari (hereinafter referred to as 'the Tribunal), assessed the income of the deceased as ₹6000/- per month, made deduction of 50% of the income of the deceased towards his personal expenses,. applied multiplier of 13 and by taking into account the age of the mother of the deceased and further by awarding ₹25,000/- on account of funeral expenses, awarded total compensation of ₹4,93,000/-.

2. Learned counsel for the appellants contended that the appeal was liable to be allowed by modifying the award and enhancing the compensation payable on the ground that despite entitlement no future

prospects had been awarded. Besides, multiplier had wrongly been applied as 13 by taking into account the age of the mother of the deceased as against the requirement to take the age of the deceased into account and lastly that no sum had been awarded on account of loss of filial consortium.

3. Per contra, learned counsel for the respondent-Insurance Company contended that the funeral expenses of ₹25,000/- awarded was on the higher side and was liable to be scaled down to ₹15,000/-.

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

5. As per paragraph No.61(iv) of the decision of Hon'ble Supreme Court in **National Insurance Company Limited vs. 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 the tax component is to be added towards future prospects while computing the compensation payable.

Since in the instant case the Tribunal did not accept the claim of the appellants that the deceased was working as Marketing Executive in Syriss Vet Medicate Pvt. Ltd. yet treated the income of the deceased at ₹6,000/- per month, therefore, for all intents and purposes, the deceased was treated as self employed. Since the deceased was 23 years of age, therefore, in accordance with paragraph No.61(vi) of the decision in **Pranay Sethi's** case (supra), 40% of the established income of the deceased shall be taken into account towards future prospects while computing the compensation payable.

6. As regards application of multiplier of 13 on the basis of age of the deceased, it needs mention that in view of paragraph No.61(vii) of the decision in **Pranay Sethi's** case (supra), it is the age of the deceased which

is to be the basis for applying the multiplier. Since the deceased was 23 years of age, therefore, in accordance with paragraph No.21 of the decision of Hon'ble the Supreme Court in **Sarla Verma Vs. Delhi Transport Corp. and another,** 2009 (3) RCR (Civil) 77, multiplier of 18 is applicable for the age group of 21 to 25. Accordingly, multiplier of 18 shall be applied for the purpose of assessing the compensation payable.

7. As per paragraph No.61(viii) of the decision in **Pranay Sethi's** case (supra), a sum of ₹40,000/- is payable on account of loss of spousal consortium. However, as per subsequent decision of Hon'ble the Supreme Court in **Magma General Insurance Co. Ltd vs, Nanu Ram Alias Chuhru Ram,** 2018(4) RCR (Civil) 333, it has been mentioned that consortium includes not only spousal and parental consortium but filial consortium also. Filial consortium is described as the right of the parents to compensation in the case of accidental death of a child. In the aforesaid decision, Hon'ble the Supreme Court was pleased to award a sum of ₹40,000/- each to the father and sister of the deceased on account of loss of filial consortium.

Accordingly, in the light of the decision of Hon'ble the Supreme Court in **Magma General Insurance Co. Ltd's case (supra),** the appellants are held entitled to ₹40,000/- each on account of loss of filial consortium.

8. 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	6,000/-	6,000/-
2	Future prospects	Nil	40%=2400/- 6000+2400=8400/-
3	Deduction	50%	50%

	towards personal expenses of deceased.		
4	Multiplier applied	13	18
5	Compensation awarded	3000x12x13=4,68,000/-	4200x12x18=9,07,200/-
6	Loss of consortium	Nil	40,000/- to mother 40,000/- to father
7	Funeral expenses	25000/-	15000/-
8	Loss of estate	Nil	15,000/-
9	Interest	7.5%	7.5%
10	Total	4,93,000/-	10,17,200/-

9. Accordingly, in the light of the position as noted above, the appellants are held entitled to the award of compensation of ₹10,17,200/- as against compensation of ₹4,93,000/- awarded by the learned Tribunal along with interest @ 7.5% per annum with effect from the date of claim petition till date of payment, less amount, if any, already paid.

10. Needless to mention, tax liability, if any, qua future prospects shall be deducted in accordance with the decision in **Pranay Sethi's** case (supra).

12. Accordingly, appeal is allowed. Award dated 6.2.2015 passed by the learned MACT, Rewari is modified to the extent as noted above.

(B.S. WALIA)
JUDGE

January 07, 2019
ps

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