[217] IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.5325 of 2015
Date of decision: 20.03.2019

Shinder Pal Singh and Others …. Appellants
Versus
Gurpreet Singh and Others ….. Respondents

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

Present: Mr. Himmat Singh, Advocate for
Mr. Tarun Vir Singh Lehal, Advocate for the appellants.

None for the respondents.

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**B.S. Walia, J.,**

[1] Appeal has been filed by the husband, then minor daughter and son of Beant Kaur who died in a motor vehicular accident on 27.07.2014.

[2] Prayer is for enhancement of compensation of ₹ 6,92,000/- by taking into account the notional monthly contribution of the deceased towards her family as ₹ 9,000/- instead of ₹ 3500/- taken into account by the learned Motor Accident Claims Tribunal, Rupnagar (hereinafter referred to as 'the Tribunal') besides by awarding ₹ 15,000/- on account of funeral expenses, ₹ 15,000/- on account of loss of estate, besides, ₹ 40,000/- on account of loss of consortium as against ₹ 10,000/-, ₹ 5000/- and ₹ 5000/- awarded towards aforementioned conventional heads by the learned Tribunal.

[3] Despite the case having been called out twice, none is present on behalf of the respondents nor has any request for pass over or adjournment been made. Since, the case is of the year 2015, I am not inclined to adjourn the case. Accordingly, with the assistance of learned

counsel for the appellants, I have gone over the paper-book in the light of the legal position.

[4] Learned counsel for the appellants contended that none had appeared on behalf of the Insurance Company (respondent No.3) before the learned Tribunal despite service, therefore, vide order dated 12.02.2015, the learned Tribunal proceeded ex parte against respondent No.3.

[5] The learned Tribunal while observing that there was no document on record to prove the monthly income of the deceased, treated her as a housewife and took her monthly contribution towards her family as ₹ 3500/-, her age as 35 years as per post-mortem report, accordingly, applied multiplier of 16 and worked out compensation of ₹ 6,72,000/-. Further, by awarding ₹ 10,000/- on account of funeral expenses, ₹ 5,000/- on account of loss of estate and ₹ 5000/- on account of loss of consortium, awarded total compensation of ₹ 6,92,000/- in the ratio of 30% to the appellant/claimant-husband and 35% to each of the two children along with interest @ 9% per annum w.e.f. the date of institution of the claim petition till realization of the amount in question with the share of the children to be deposited in their name in an FDR in some nationalized Bank till they attained the age of majority. Further the liability of the respondents to pay the amount of compensation to the claimants was held to be joint as well as several.

[6] Learned counsel for the appellants has relied upon the decision of a Co-ordinate Bench of this Court in FAO No.7624 of 2015 decided on 08.02.2019 in case titled as Satbir Singh vs Anil Kumar and others as well as FAO No.5013 of 2017 decided on 29.01.2019 in case titled as Ravi Parkash (Minor) and another vs Balkar Singh and another.

[7] In Satbir Singh's case (Supra), contribution of the deceased-housewife was assessed by the learned Tribunal at ₹ 6000/- per month on

account of her death on 14.08.2013. However, while relying upon FAO No.218 of 2014 where income of the deceased housewife assessed at ₹ 9,000/- per month was upheld by relying upon the decision of a Co-ordinate Bench in FAO No. 652 of 2015, in respect of an accident which had taken place in January, 2013, notional contribution of the housewife was assessed at ₹ 9,000/- per month. Similarly, by relying upon the decision in FAO No. 3939 of 2015 in respect of an accident which had taken place on 14.08.2013, contribution of the deceased housewife towards her family was assessed at ₹ 9,000/- per month. Further, by relying upon a Division Bench of this Court in **Paramjit Singh and another vs Dilbagh Singh @ Bagga and others, 2014 (4) RCR (Civil) 895**, it was ordered that no deduction was to be effected from the compensation awarded.

[8] Likewise, as per the decision of this Court in FAO No.5013 of 2017, contribution of the deceased housewife towards her family was assessed at ₹ 9,000/- per month in the case of date of death of the housewife on 22.02.2015 and in view of the decision of a Co-ordinate Bench of this Court in case titled as Cholamandalam MS General Insurance Company Ltd. V. Lakhmi Chand and others, FAO No.4763 of 2016 decided on 25.09.2018, no deduction was ordered towards personal expenses on account of notional contribution towards the family. Relevant extract of the decision in Cholamandalam's case (Supra) is reproduced as under:-

> *"If we are taking the notional income for a housewife then no amount should be added for future prospects. The Hon'ble Supreme Court in Arun Kumar Aggarwal and another vs. National Insurance Company and others, 2010 (3) PLR (SC) 418 did not award anything for future prospects where a housewife had died. Similarly, in Krishan Gopal vs. Lala, 2013 (4) RCR (Civil) 276 a child had died and two Judges Bench of the Hon'ble Supreme*

> *Court while awarding compensation did not take anything for future prospects. In my opinion when the claimants are unable to prove that the deceased was earning and notional income is taken into account for calculating the loss, then benefit for future prospects should not be added. It is one thing to count income for future prospects when the income is proven but where the income is notional as in the case of a student or a housewife, it may not be appropriate to award further benefit of notional future prospects, particularly when in the cases of notional income the Courts are not making any deduction for personal expenses."*

Accordingly, on account of Beant Kaur having died in a motor vehicular accident on 27.07.2014, her notional monthly contribution towards her family is assessed as ₹ 9,000/- per month.

[9] Further, as per paragraph No.61 (viii) of the decision of Hon'ble the Supreme Court in **National Insurance Company Ltd. vs Pranay Sethi and others, 2017 (4) RCR (Civil) 1009**, the appellants are entitled to ₹ 15,000/- on account of funeral expenses and ₹ 15,000/- on account of loss of estate, besides, ₹ 40,000/- on account of loss of consortium.

[10] 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. | Monthly contribution of the deceased-housewife towards her family | ₹ 3500/- per month | ₹ 9000/- per month |
| 2. | Future Prospects | Nil | Nil |
| 3. | Deduction | Nil | Nil |

| | | | |
|---|---|---|---|
| 4. | Multiplier | 16 | 16 |
| 5. | Dependency (Annual) | ₹ 3500/- x 12 =₹ 42,000/- | ₹ 9000/- x 12 = ₹ 1,08,000/- |
| 6. | Compensation awarded by applying multiplier | ₹ 42,000/- x 16 = ₹ 6,72,000/- | ₹ 1,08,000/- x 16 = ₹ 17,28,000/- |
| 7. | Loss of Consortium | ₹ 5000/- | ₹ 40,000/- |
| 8. | Funeral Expenses | ₹ 10,000/- | ₹ 15,000/- |
| 9. | Loss of Estate | ₹ 5000/- | ₹ 15,000/- |
| 10. | Rate of Interest | 9% per annum | 9% per annum |
| | **TOTAL** | ₹ 6,92,000/- | ₹ 17,98,000/- |

[11] Accordingly, as against compensation of ₹ 6,92,000/- awarded by the learned Tribunal, the appellants are held entitled to award of compensation of ₹ 17,98,000/- along with interest @ 9% per annum with effect from the date of claim petition till date of payment, less payment, if any, made earlier. Apportionment of the compensation shall be made in accordance with the ratio stipulated in the award passed by the learned Tribunal.

[12] Accordingly, the appeal is allowed by modifying Award dated 27.02.2015 passed by the learned Tribunal, Rupnagar to the extent as noted above.

(B.S. Walia)
Judge

20.03.2019
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1. Whether speaking/reasoned : Yes/No.
2. Whether reportable : Yes/No.