IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.7469 of 2014
Date of Decision: 05.03.2019.

Nazma and others ...Appellants

Versus

Ravi Parkash and others ....Respondents

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

Present: None for the appellants.
Mr. Vipul Sharma, Advocate for Paul S. Saini, Advocate for respondent No.3.
None for the other respondents.

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B.S.Walia, J.,

1. Appeal has been filed by the claimants i.e. wife, four minor daughters and two minor sons of Maherdeen s/o Munshi who died in a motor vehicular accident on 23.06.2013. Prayer is for enhancement of compensation of ₹22,98,881/- awarded by the learned Motor Accidents Claims Tribunal, Rewari (hereinafter referred to as 'the Tribunal'), vide award dated 18.04.2014 to the appellants and proforma respondent No.4.

2. The Insurance Company has not filed any cross-objections.

3. None is present on behalf of the appellants. For that matter, none was present on behalf of the appellants on 28.04.2017 as well as on 30.10.2017 whereafter the case was adjourned on four different dates by order. However, since the case is of the year 2014, I am not inclined to adjourn the case. With the assistance of learned counsel for the Insurance Company, I have gone over the file and am of the view that the appeal is liable to be allowed, award modified and compensation payable enhanced *inter-alia* by awarding compensation on account of future prospectus which was not granted by the Tribunal despite entitlement and secondly by awarding ₹15,000/- on account of loss of estate.

4. Learned counsel for Insurance Company very fairly does not oppose the enhancement of compensation in the light of decision of Hon'ble the Supreme Court in **National Insurance Company Ltd. vs. Pranay Sethi and others 2017 ACJ 2700**. Learned counsel, however, contends that funeral expenses was wrongly awarded @ ₹25,000/- as against entitlement to award of sum of ₹15,000/- besides ₹1,00,000/- awarded by the Tribunal on account of loss of consortium as against entitlement to award of ₹40,000/- only on account of loss of spousal consortium.

5. I have perused the file and considered the submissions of learned counsel for respondent No. 3.

6. Admittedly the deceased left behind eight dependants i.e. wife, four minor daughters, two sons and mother. The Tribunal by taking into account the age of the deceased as '37' years, occupation, motor mechanic, annual income ₹,1,79,575/- as per income tax return for the assessment year 2011-12, medical expenses of ₹18,981/-, deduction of 1/5th of the income of the deceased towards personal expenses, by applying multiplier of '15', and by awarding ₹25,000/- on account of funeral expenses and ₹1,00,000/- on account of loss of spousal consortium, awarded total compensation of ₹22,98,881/-. However, no amount was paid on account of future prospects or for loss of estate.

7. As per paragraph No.61 (iv) of the decision in Pranay Sethi's case (supra), where the deceased was self-employed and less than 40 years of age, 40% of the established income, minus the tax component is to be taken into account for the purpose of working out the future prospects payable, while 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, ₹15,000/- on account of funeral expenses and like amount is payable on account of loss of estate.

8. Learned counsel for the Insurance Company has fairly stated that no income tax was payable on the annual income of ₹1,79,575/- as per the income tax slab for the relevant year.

9. Accordingly, in the light of the position as noted above, the appellants and proforma respondent No.4 are held entitled to award of compensation as per details given as under :-

Sr. No.	**Head**	**Amount assessed by Tribunal in ₹**	**Amount assessed by this Court in ₹**
1	Annual Income	1,79,575/-	1,79,575/-
2	Future prospects	Nil	40% of 1,79,575/– i.e. 71,830/-
3	Deduction towards personal expenses of deceased	$1/5^{th}$ i.e. 1,79,575 - 1,43,660= 35,915/–	$1/5^{th}$ i.e. 2,51,405-2,01,124=50,281/-
4	Multiplier applied	15	15
5	Compensation awarded	1,43,660x15=21,54,900/-	2,01,124x15=30,16,860/-
6	Medical expenses	18,981/-	18,981/-
7	Loss of spousal consortium	1,00,000/–	40,000/-
8	Funeral expenses	25,000/–	15000/-
9	Loss of estate	Nil	15,000/-
10	Interest	9% per annum	9% per annum
11	Total	22,98,881/-	31,05,841/-

10. In the light of the position as noted above, as against compensation of ₹22,98,881/–, the appellants and proforma respondent No.4 are held entitled to compensation of ₹ 31,05,841/– along with interest @ 9% per annum from the date of claim petition till date of payment, less payment, if any, already made.

11. Accordingly, appeal is allowed. Award dated 18.04.2014, passed by the learned Tribunal, Rewari is modified to the extent as noted above.

(B.S. Walia)
Judge

March 05, 2019
rajesh.k.khurana

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