IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM Nos.19569-70-CII of 2015 and
FAO No.6171 of 2015 (O&M)
Date of decision: 31.01.2019

Amarjit Kaur @ Rimpy and others. ….. Appellants

Versus

Satpal and others. ….. Respondents

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

Present: Mr. A.S. Barnala, Advocate for the appellants.

Mr. Amit Kundra, Advocate for respondent No.3 – Insurance Company.

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B.S. WALIA, J. (Oral)

CM No. 19569-CII of 2015

For the reasons as are mentioned in the application, the same is allowed. Delay of 24 days in filing of the appeal is condoned subject to all just exceptions.

Main Case

[1] Notice of motion to contesting respondent No.3 only.

[2] Mr. Amit Kundra, Advocate, who was present in Court, accepted notice on behalf of respondent No.3 and requested for the case to be taken up after lunch break in order to enable him to go over the paper-book and to address arguments.

[3] Accordingly, case is taken up for hearing after lunch break and with the assistance of counsel for the parties, I have gone over the award and have considered their submissions.

[4] Appeal has been filed by the widow and two minor children of Jagsir Singh who died in a motor vehicular accident on 01.07.2014.

[5] Prayer is for enhancement of compensation of ₹ 10,35,000/- awarded to the appellants and parents (i.e. respondent Nos.4 and 5) of the deceased.

[6] Leaned Motor Accidents Claims Tribunal, Ludhiana (hereinafter referred to as 'the Tribunal') by taking into account the age of the deceased as 36 years and treating him as semi-skilled worker, assessed his income as ₹6,000/- per month, applied multiplier of 15 and by making deduction of 1/4th from the income of the deceased towards his personal expenses, besides, by awarding ₹1,00,000/- on account of loss of love and affection, ₹ 1,00,000/- on account of loss of spousal consortium, and ₹ 25,000/- on account of funeral expenses, awarded total compensation of ₹ 10,35,000/- along with interest @ 6 % per annum.

[7] Learned counsel for the appellants contends that the appeal is liable to be allowed, award modified and compensation payable enhanced by awarding future prospects, besides, appropriate compensation under the conventional heads on account of loss of spousal and parental consortium as also appropriate compensation on account of loss of estate.

[8] Learned counsel for respondent No.3 has fairly not opposed the addition of 40% of the established income of the deceased towards future prospects while computing compensation in accordance with the decision of Hon'ble the Supreme Court in **National Insurance Company Limited vs Pranay Sethi and others, 2017 (4) RCR (Civil) 1009**. However, he has contended that no amount is payable on account of loss of love and affection.

Besides, award of ₹ 25,000/- on account of funeral expenses was liable to be scaled down to ₹ 15,000/-.

[9] I have considered the submissions of learned counsel for the parties. As per paragraph No.61 (iv) of the decision of Hon'ble the Supreme Court in Pranay Sethi's case (Supra) since the deceased was self-employed and less than 40 years of age, therefore, 40% of the established income of the deceased minus the tax component is to be taken into account towards future prospects while computing the compensation.

[10] Likewise, as per paragraph No.61 (viii) of the decision of Hon'ble the Supreme Court in Pranay Sethi's case (Supra), the appellants are entitled to ₹ 15,000/- on account of funeral expenses and ₹ 15,000/- on account of loss of estate.

Accordingly, a sum of ₹ 25,000/- awarded on account of funeral expenses is scaled-down to ₹ 15,000/- while an amount of ₹ 1,00,000/- awarded on account of loss of love and affection is held to be not payable.

[11] Likewise, the widow of the deceased is held entitled to ₹ 40,000/- on account of loss of spousal consortium in accordance with Pranay Sethi's case (Supra) whereas as per paragraph No.8.7 of the decision of Hon'ble the Supreme Court in **Magma General Insurance Co. Ltd. v. Nanu Ram @ Chuhru Ram and others, 2018 (4) RCR (Civil) 333**, a sum of ₹ 40,000/- is payable to each of the children of the deceased on account of loss of parental consortium. Since, the deceased left behind two minor children, therefore, apart from sum of ₹ 40,000/- payable to the widow of the deceased on account of loss of spousal consortium, ₹ 80,000/- is payable to the two minor children on account of loss of parental consortium. However,

no compensation is payable to the father (i.e. respondent No.4) and the mother (i.e. respondent No.5) of the deceased on account of loss of filial consortium in view of the decision in Magma General Insurance Company Ltd.'s case (Supra) since the deceased was married.

[12] Faced with the aforementioned position, learned counsel for respondent No.3 – Insurance Company contended that in view of subsequent decision of Hon'ble the Supreme Court in **Vimla Devi and others vs National Insurance Company Ltd. and others, 2019 (1) RCR (Civil) 86** award of compensation on account of loss of spousal/parental consortium in the case of widow and two minor children is liable to be restricted to ₹ 1,00,000/-. In the light of the position as noted above, compensation on account of loss of spousal and parental consortium to the widow and two minor children of the deceased is restricted to ₹ 1,00,000/-.

[13] Learned counsel for the appellants relied upon the decision of Hon'ble the Supreme Court in **Sunita Devi vs Vijay Pal & others, 2018 (2) Law Herald 1659** where accident was of 16.04.2014 and rate of interest was awarded @ 7.5% per annum. On the basis of the same, learned counsel contends that the compensation is liable to be paid along with interest @ 7.5% per annum. Learned Counsel for respondent No.3-Insurance Company on the other hand opposes the interest claimed.

[14] I have considered the submissions of learned counsel for the parties and am of the view that since the accident in the instant case is also of the year 2014 as was in Sunita Devi's case (Supra) decided by Hon'ble the Supreme Court, therefore, it would be in the fitness of things that compensation be paid along with interest @ 7.5% per annum.

[15] In the light of the position as noted above, the appellants and parents of the deceased (i.e. father – respondent No.4 and mother – respondent No.5) are held entitled to the following compensation :-

Sr. No.	**Heads**	**Amount assessed by the Tribunal**	**Amount assessed by the Court**
1.	Income	₹ 6000/-	₹ 6000/-
2.	Future Prospects	Nil	40% of ₹ 6000/- = ₹2400/-
3.	Total Income Assessed	₹ 6000/-	₹ 6000/- + ₹ 2400/- = ₹ 8400/-
4.	Multiplier applied	15	15
5.	Deduction (towards personal expenses of deceased)	1/4th of ₹ 6000/- = ₹ 1500/-	1/4th of ₹ 8400/- = ₹ 2100/-
6.	Dependency (Annual)	(₹ 6000/- - ₹ 1500/-) = ₹ 4500/- (per month) and (₹ 4500/- x 12) = ₹54,000/- (Annually)	(₹ 8400/- - ₹ 2100/-) = ₹ 6300/- (per month) and (₹ 6300/- x 12) = ₹ 75,600/- (Annually)
7.	Compensation awarded by applying multiplier	₹ 54,000/- x 15 = ₹ 8,10,000/-	₹ 75,600/- x 15 = ₹ 11,34,000/-
8.	Loss of Love and affection	₹ 1,00,000/-	NIL
9.	Loss of consortium	₹ 1,00,000/-	₹ 40,000/- (widow) ₹ 40,000/- (to each of the children of the deceased i.e. ₹ 80,000/-) Total = ₹ 1,20,000/- Restricted to

			₹ 1,00,000/- in view of decision of Hon'ble the Supreme Court in Vimla Devi's case.
10.	Funeral Expenses	₹ 25,000/-	₹ 15,000/-
11.	Loss of Estate	NIL	₹ 15,000/-
12.	Rate of interest	6% per annum	7.5% per annum
Total		**₹ 10,35,000/-**	**₹ 12,64,000/-**

[16] Accordingly, as against compensation of ₹ 10,35,000/- awarded by the Tribunal, the appellants and parents (i.e. respondent Nos.4 and 5) of the deceased are held entitled to compensation of **₹ 12,64,000/-**along with interest @ 7.5% per annum on the enhanced amount with effect from the date of claim petition till date of payment, less payment, if any, made earlier after first making payment of compensation on account of loss of spousal/parental consortium to the widow and two minor children of the deceased. Apportionment of the compensation shall be made in accordance with the ratio stipulated in the award passed by the learned Tribunal.

[17] Needless to mention, the Insurance Company shall deduct income tax liability, if any, qua future prospects in accordance with the decision in Pranay Sethi's case (supra).

[18] Accordingly, appeal is allowed by modifying Award dated 28.04.2015 passed by the Learned Tribunal to the extent as noted above.

(B.S. WALIA)
JUDGE

31.01.2019
amit

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