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

FAO No.8053 of 2014 (O&M)
Date of decision: 13.03.2019

Taluka Devi and others

….. Appellants

Versus

Ravinder Singh and others

….. Respondents

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

Present: Mr. S.S. Sidhu, Advocate for the appellants.

Mr. Ashwani Talwar, Advocate and
Mr. Akash Sridhar, Advocate for the respondents.

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B.S. WALIA, J. (ORAL)

[1] Appeal has been filed by the parents and siblings of Udey Krishan who died in a motor vehicular accident on 23.07.2012.

[2] Prayer is for enhancement of compensation of ₹ 6,40,000/- awarded by the learned Motor Accidents Claims Tribunal, Rupnagar (hereinafter referred to as 'the Tribunal').

[3] Leaned Tribunal took into account that the deceased was a 2nd year student of 3 years Diploma Course in Electronics and Communication at the Ryat Bhara Polytechnic College, SBS Nagar, Mohali, assessed his notional income as ₹ 5,000/- per month, took into account his age as 20 years, applied multiplier of 14 as per the age of his parents, made deduction of 50% of the income assessed towards the personal expenses of the deceased, took into account 50% of the established income of the deceased

towards future prospects and further by awarding ₹ 10,000/- on account of transportation and last rites, awarded total compensation of ₹ 6,40,000/- along with interest @ 6 % per annum.

[4] Learned counsel for the appellants contended that the appeal was liable to be allowed, award modified and compensation payable enhanced by taking into account the notional income of the deceased at ₹ 15,000/- per month and by awarding appropriate compensation on account of conventional heads.

[5] Per contra, learned counsel for respondent No.3-Insurance Company contended that the enhancement in compensation claimed on account of assessment of income was highly exorbitant and that future prospects had wrongly been awarded @ 50% on the established income of the deceased and could not be more than 40%. Besides, no amount could be awarded on account of transportation charges.

[6] I have considered the submissions of learned counsel for the parties.

[7] Admittedly, the deceased was 20 years old and a 2nd year student of 3 years Diploma Course in Electronics and Communication at the Ryat Bhara Polytechnic College, SBS Nagar, Mohali. His marks card of 1st year of the Diploma Course has been placed on record as Ex.P8 which shows that he secured 65% marks. The deceased is also stated to have undergone six weeks' of the In-house Training Programme of the Diploma at Gujarat Ambuja Cement being pursued by the deceased.

[8] Learned counsel for the appellants has relied upon the decision of a Co-ordinate Bench of this Court in **Amarjeet Kaur and another v. Salinder Singh and others decided on 18.09.2017 in FAO No.6944 of 2015** wherein the notional income of a student of Hotel Management was

assessed at ₹ 10,000/- per month and the income assessed by the learned Tribunal at ₹ 5,000/- was enhanced to ₹ 10,000/-.

[9] The deceased in the instant case was a 2nd year student of 3 years Diploma Course in Electronics and Communication at the Ryat Bhara Polytechnic College, SBS Nagar, Mohali and was a meritorious student as is evident from marks card (Ex.P8) reflecting the marks obtained by the deceased in the 1st year of 3 years Diploma Course.

[10] The deceased on completion of three years diploma course would have got a job approximately in the range of ₹ 25,000/- to ₹ 30,000/- per month. Taking into account all aspects of the matter including the decision of a Co-ordinate Bench of this Court in Amarjeet Kaur's case (Supra), I assess the notional income of the deceased at ₹ 10,000/- per month. However, 50% of the established income of the deceased taken into account for the purpose of future prospects is contrary to the law laid down by Hon'ble the Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009**.

Accordingly, as per paragraph No.61 (iv) of the decision in Pranay Sethi's case (Supra), instead of 50%, 40% of the established income of the deceased minus the tax component shall be taken into account for the purpose of future prospects while computing the compensation payable.

[11] Learned counsel for the appellant contends that even if the notional income of the deceased was taken at ₹ 10,000/- per month still the same would not fall in the taxable slab. The same is not disputed by the learned counsel for respondent No.3-Insurance Company.

[12] However, as per paragraph No.61 (viii) of the decision in Pranay Sethi's case (Supra), as against sum of ₹ 10,000/- awarded by the learned Tribunal on account of transportation and funeral expenses, the

appellants are entitled to compensation of ₹ 15,000/- on account of funeral expenses only and ₹ 15,000/- on account of loss of estate.

[13] Learned counsel further contended that since the claimants are the parents, therefore, in accordance with the decision of Hon'ble the Supreme Court in **Sarla Verma v. Delhi Transport Corporation, 2009 ACJ 1298,** 50% of the notional income of the deceased shall be deducted towards personal expenses of the deceased. He further contended that the multiplier of 14 had been applied taking into account the age of the claimants in derogation of the law laid down in **Sarla Verma's case** (Supra) as per which it is the age of the deceased which is to be taken into account for applying multiplier.

[14] Since, the deceased was 20 years of age, therefore, in accordance with the decision of Hon'ble the Supreme Court in Sarla Verma's case (Supra), multiplier of 18 would be applicable. Likewise, 50% shall be deducted from the notional income of the deceased towards personal expenses.

[15] Learned counsel for the appellants further contended that the interest awarded @ 6% per annum was on the lower side and that minimum of 9% per annum ought to have been awarded.

[16] On the other side, learned counsel for respondent No.3-Insurance Company opposes the same.

[17] I have considered the submissions of learned counsel for the parties. In **Sunita Devi v. Vijay Pal and others, 2018 (2) Law Herald 1659** where accident was of the year 2014,Hon'ble the Supreme Court awarded interest @ 7.5% per annum. Since accident in the instant case is of the year 2012, it would be in the fitness of the things that compensation be

paid along with interest @ 7.5% per annum in terms of the decision in Sunita Devi's case (Supra).

[18] 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.	Income	₹ 5000/-	₹ 10,000/-
2.	Future Prospects	50% of ₹ 5000/- = ₹ 2500/-	40% of ₹ 10,000/- = ₹ 4000/-
3.	Total Income Assessed	₹ 5000/- + ₹ 2500/- = ₹ 7500/-	₹ 10,000/- + ₹ 4000/- = ₹ 14,000/-
4.	Multiplier applied	14	18
5.	Deduction (towards personal expenses of deceased)	50% of ₹ 7500/- = ₹ 3750/-	50% of ₹ 14,000/- = ₹ 7000/-
6.	Dependency (Annual)	₹ 7500/- - ₹ 3750/- = ₹ 3750/- (monthly) and (₹ 3750/- /- x 12) = ₹ 45,000/- (Annually)	₹ 14,000/- - ₹ 7000/- = ₹ 7000/- (monthly) and (₹ 7000/- x 12) = ₹ 84,000/- (Annually)
7.	Compensation by applying multiplier	₹ 45000/- x 14 = ₹ 6,30,000/-	₹ 84,000/- x 18 = ₹ 15,12,000/-
8.	Funeral Expenses	₹ 10,000/-	₹ 15,000/-
9.	Loss of Estate	NIL	₹ 15,000/-

10.	Rate of interest	6% per annum	7.5% per annum
Total		**₹ 6,40,000/-**	**₹ 15,42,000/-**

[19] Accordingly, as against compensation of ₹ 6,40,000/- awarded by the Tribunal, the appellants are held entitled to compensation of ₹ **15,42,000/-** 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. Apportionment of the compensation shall be made in accordance with the ratio stipulated in the award passed by the learned Tribunal.

[20] Accordingly, appeal is allowed by modifying Award dated 03.10.2013 passed by the learned Tribunal, Rupnagar to the extent as noted above.

(B.S. WALIA)
JUDGE

13.03.2019
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1. Whether speaking/reasoned : Yes/No.
2. Whether reportable : Yes/No.