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

FAO No.8600 of 2014
Date of decision: 31.01.2019

Meena and others. ….. Appellants

Versus

Umesh and others. ….. Respondents

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

Present: Mr. Ram Pal Verma, Advocate for the appellants.

Mr. Harjinder Singh, Advocate for
Mr. Naveen Kapur, Advocate for respondent No.2 – Insurance Company.

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B.S. Walia, J. (Oral),

[1] Appeal has been filed by the widow, three minor children and mother of Rajender Kumar who died in a motor vehicular accident on 15.11.2012.

[2] Prayer is for enhancement of compensation by awarding future prospects as also appropriate compensation under the conventional heads.

[3] Learned Motor Accidents Claims Tribunal, Sonepat (hereinafter referred to as 'the Tribunal') took into account the age of the deceased as 45 years, treated him as unskilled labourer, assessed his income as ₹ 6,000/- per month, applied multiplier of 14 and by making deduction of 1/4th from the income of the deceased towards his personal expenses on account of five dependents, besides, by awarding ₹ 10,000/- on account of loss of

consortium and ₹ 5,000/- on account of funeral expenses, awarded total compensation of ₹ 7,71,000/- along with interest @ 7.5 % per annum.

[4] Learned counsel for respondent No.2- Insurance Company fairly does not oppose the claim for award of future prospects or for that matter award of appropriate compensation on account of loss of spousal/parental consortium besides compensation under other conventional heads.

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

[6] Admittedly, the deceased was 45 years of age and was self-employed. Accordingly, in terms of paragraph No.61 (iv) of the decision of Hon'ble the Supreme Court in **National Insurance Company Limited vs Pranay Sethi and others, 2017 (4) RCR (Civil) 1009,** since the deceased was self-employed and more than 40 years of age, therefore, 25% of the established income of the deceased minus tax component shall be taken into account towards future prospects while computing compensation.

[7] 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, ₹ 15,000/- on account of loss of estate, while the widow of the deceased is entitled to ₹ 40,000/- on account of loss of spousal consortium. However, as per paragraph No.8.7 of the decision of Hon'ble the Supreme Court in **Magma General Insurance Co. Ltd. vs Nanu Ram @ Chuhru Ram and others, 2018 (4) RCR (Civil) 333**, a sum of ₹ 40,000/- is payable to each of the minor children of the deceased on account of loss of parental consortium. However, no compensation is payable to the mother of the deceased (i.e. appellant No.5) on account of loss of filial consortium in view of the

aforementioned decision in Magma General Insurance Company Ltd.'s case (Supra) since the deceased was married.

[8] Faced with the aforementioned position, learned counsel for respondent No.2 – Insurance Company contends that in view of the 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 a widow and two minor children having been restricted to ₹ 1,00,000/-, award of compensation on account of loss of consortium in the instant case also be restricted in the same terms. Having considered the submissions of learned counsel, in the light of the position as noted above, compensation on account of loss of spousal and parental consortium to the widow and three minor children of the deceased is restricted to ₹ 1,00,000/-.

[9] 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	₹ 6000/-	₹ 6000/-
2.	Future Prospects	Nil	25% of ₹ 6000/- = ₹1500/-
3.	Total Income Assessed	₹ 6000/-	₹ 6000/- + ₹ 1500/- = ₹ 7500/-
4.	Multiplier applied	14	14
5.	Deduction (towards personal expenses of deceased)	1/4th of ₹ 6000/- = ₹ 1500/-	1/4th of ₹ 7500/- = ₹ 1875/-
6.	Dependency (Annual)	(₹ 6000/- - ₹ 1500/-) = ₹ 4500/- (per month) and (₹ 4500/- x 12) =	(₹ 7500/- - ₹1875/-) = ₹5625/- (per month) and (₹ 5625/- x 12) =

		₹54,000/- (Annually)	₹ 67,500/- (Annually)
7.	Compensation awarded by applying multiplier	₹ 54,000/- x 14 = ₹ 7,56,000/-	₹ 67,500/- x 14 = ₹ 9,45,000/-
8.	Loss of consortium	₹ 10,000/-	₹ 40,000/- (widow) ₹ 40,000/- (to each of the three children of the deceased i.e. ₹ 1,20,000/-) Total = ₹ 1,60,000/- Restricted to ₹ 1,00,000/- in view of the decision of Hon'ble the Supreme Court in Vimla Devi's case (Supra).
9.	Funeral Expenses	₹ 5,000/-	₹ 15,000/-
10.	Loss of Estate	NIL	₹ 15,000/-
11.	Rate of interest	7.5% per annum	7.5% per annum
Total		**₹ 7,71,000/-**	**₹ 10,75,000/-**

[10] Accordingly, as against compensation of ₹ 7,71,000/- awarded by the learned Tribunal along with interest @ 7.5% p.a. w.e.f. the date of claim petition till realization, the appellants/claimants are held entitled to compensation of ₹ 10,75,000/- along with interest @ 7.5% per annum 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 three 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.

[11] 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).

[12] Accordingly, appeal is allowed by modifying Award dated 12.09.2013 passed by the learned Tribunal to the extent as noted above.

(B.S. Walia)
Judge

31.01.2019
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1. Whether speaking/reasoned : Yes/No.
2. Whether reportable : Yes/No.