**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

231 **FAO No.8867 of 2014**
Date of Decision : 25.03.2019

BIBI GULNAJ AND OTHERS

....APPELLANTS

V/S

KRISHAN KUMAR AND OTHERS

....RESPONDENTS

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

Present: Mr. Aditya Singh, Advocate for
Mr. S.S. Khurana, Advocate
for the appellants.

Mr. M.B. Jain, Advocate
for respondent No.3/*Insurance Company*.

B.S. WALIA, J. (ORAL)

[1] Appeal has been filed by the widow and three minor children of Abdul Sammad, who died in a motor vehicular accident on 15.04.2011, claiming enhancement of compensation of ₹8,70,000/-, awarded by the learned Motor Accidents Claims Tribunal, Rewari (hereinafter referred to as 'the Tribunal').

[2] Learned counsel for the appellants contended that the appeal was liable to be allowed, award modified, compensation payable enhanced by making an addition of 40% of the established income of the deceased towards future prospects, while computing the compensation payable.

[3] Learned counsel for respondent No.3/*Insurance Company* while fairly conceding the prayer for taking into account 40% of the established income of the deceased towards future prospects, contended that a sum of ₹1,00,000/- awarded on account of loss of consortium to the widow of the

deceased was liable to be reduced to ₹40,000/-, while ₹25,000/- awarded on account of transportation and funeral expenses was liable to be reduced to ₹15,000/- for funeral expenses only, besides ₹25,000/- awarded on account of loss of love, care and guidance to children was not payable in view of the decision of Hon'ble the Supreme Court in '***National Insurance Company Limited*** *versus* ***Pranay Sethi and others***', *2017(4) RCR (Civil) 1009*.

[4] Faced with the aforementioned position, learned counsel for the appellants contended that a sum of ₹15,000/- was payable on account of loss of estate, which had not been awarded by the learned Tribunal.

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

[6] Admittedly, the deceased was 35 years of age. The learned Tribunal by taking into account the income of the deceased as ₹5,000/- per month, by making deduction of $1/4^{th}$ of the income of the deceased towards his personal expenses, besides applying multiplier of '16' and in addition thereto, awarding a sum of ₹1,00,000/- on account of loss of consortium to the widow of the deceased, ₹25,000/- on account of loss of love, care and guidance to children, besides ₹25,000/- on account of transportation and funeral expenses, awarded total compensation of ₹ 8,70,000/-.

[7] As per paragraph No.61 (iv) of the decision of Hon'ble the Supreme Court in '***Pranay Sethi's*** *case (supra)*, in view of the deceased being less than 40 years of age and self employed, 40% of the established income of the deceased was liable to be taken into account for working out the future prospects, while computing the compensation payable.

[8] Learned counsel for the parties are in agreement that the income of the deceased was not taxable. Secondly, as per paragraph No.61(viii) of the

decision of Hon'ble the Supreme Court in '***Pranay Sethi's*** *case (supra)*, ₹40,000/- is payable on account of loss of consortium to the widow of the deceased, whereas ₹15,000/- is payable on account of funeral expenses and ₹15,000/- on account of loss of estate. Accordingly, as against compensation of ₹1,00,000/- awarded on account of loss of consortium, the widow of the deceased is held entitled to award of ₹40,000/- on account of loss of consortium, whereas as against award of ₹25,000/- on account of transportation and funeral expenses, the appellants are held entitled to award of ₹15,000/- on account of funeral expenses and ₹15,000/- on account of loss of estate. However, no amount is payable either on account of transportation charges or on account of loss of love, care and guidance to the children. Accordingly, in the light of the position as noted above, the appellants are held entitled to the following compensation:-

Particulars	**Assessed by the Tribunal (in ₹)**	**Re-assessed by the High Court (in ₹)**
Income assessed	5000/-	5000/-
Add:Future Prospects	NIL	40% of 5000 = 2000/-
Deductions	1/4th of 5000=1250/-	1/4th of 7000=1750/-
Total Income	3750/-	5250/-
Multiplier	16	16
Dependency	3750 x 12 x 16=7,20,000/-	5250 x 12 x 16=10,08,000/-
Loss of Spousal Consortium	1,00,000/-	40,000/-
Loss of love, care & guidance	25,000/-	NIL
Transportation & funeral expenses	25,000/-	15,000/- funeral expenses only
Loss of Estate	NIL	15,000/-
Total compensation	**8,70,000/-**	**10,78,000/-**

[9] Accordingly, as against compensation of ₹ 8,70,000/-, awarded by the learned Tribunal, Rewari, the appellants are held entitled to award of ₹10,78,000/- along with interest @ 7.5% per annum with effect from the date of the claim petition, till date of payment, less payment if any, already made. Accordingly, the appeal is **allowed**, award dated 02.05.2014, passed by the learned Tribunal, Rewari is **modified** to the extent as noted above.

(B.S. WALIA)
JUDGE

March 25, 2019
'Rajneesh'

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