IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

102 **FAO No.73 of 2015 (O&M)**
Date of Decision : 26.03.2019

UNITED INDIA INSURANCE COMPANY LIMTED
....APPELLANT

V/S

MANJIT DEVI @ MANJIT KAUR AND OTHERS
....RESPONDENTS

CORAM : <u>HON'BLE MR. JUSTICE B.S. WALIA</u>

Present: Mr. V.Ramswaroop, Advocate
for the appellant/*Insurance Company*.

Mr. Jasmeet Singh Bhatia, Legal Aid Counsel
for respondent Nos.1 to 5.

Respondent Nos.6 & 7 already *ex parte*
vide order dated 04.08.2015.

<u>B.S. WALIA, J. (ORAL)</u>

[1] Appeal has been filed by the Insurance Company, seeking reduction of compensation of ₹12,37,500/-, awarded by the learned Motor Accidents Claims Tribunal, Patiala (hereinafter referred to as 'the Tribunal') to the respondents-claimants on account of death of Balkar Ram in a motor vehicular accident on 14.09.2013.

[2] Learned counsel for the appellant contends that despite entitlement to take into account only 40% of the established income of the deceased for awarding future prospects, 50% of the established income had been taken into account, besides as against entitlement to award of

₹40,000/- on account of loss of spousal consortium, ₹1,00,000/- had been awarded. Likewise, as against entitlement to ₹15,000/- on account of funeral expenses, ₹25,000/- had been awarded, besides a sum of ₹1,00,000/- had been awarded on account of loss of love and affection despite there being no head in respect thereto.

[3] Per contra, learned Legal Aid Counsel appearing on behalf of the respondents-claimants contended that the income of the deceased, who was a vegetable and fruit vendor was claimed as ₹15,000/- per month but the same had been taken as ₹5,000/- per month only, whereas even in the case of an unskilled labourer during the relevant period, notification issued under the Minimum Wages Act provided wages of ₹6247.75 per month, therefore, at least ₹6247.75 was liable to be taken into account as the notional income of the deceased. Photocopy of the notification duly signed by the learned Legal Aid Counsel has been furnished in Court. The same is taken on record as Mark 'A'. Copy thereof handed over to the learned counsel for the appellant, who on perusal thereof does not dispute minimum wages in the case of unskilled worker at the relevant point of time as ₹6247.75 per month. In view of the position as noted above, income of the deceased is taken at ₹6247.75 rounded off to ₹6250/- per month instead of ₹5000/- assessed by the Tribunal.

[4] Admittedly, the deceased was 38 years of age, was self employed and left behind 05 dependants.

[5] Learned counsel for the parties are in agreement that income of the deceased even as per notification issued under the Minimum Wages Act for an unskilled labourer was below the taxable limit.

[6] Accordingly, in view of paragraph No.61(iv) of the decision in '***National Insurance Company Limited*** *versus* ***Pranay Sethi and others***',

2014(4) RCR (Civil) 1009, as the deceased was self employed, was less than 40 years of age, therefore, 40% and not 50% of the established income of the deceased is to be taken into account for the purpose of working out future prospects, while computing the compensation payable.

[7] Likewise, as per paragraph No.61(viii) of the decision of Hon'ble the Supreme Court in ***Pranay Sethi's*** *case (surpa)*, ₹40,000/- is payable on account of loss of spousal consortium, while ₹15,000/- is payable on account of funeral expenses and as rightly claimed by learned Legal Aid Counsel, ₹15,000/- on account of loss of estate. However, no amount is payable on account of loss of love and affection.

[8] Accordingly, in the light of the position as noted above, the respondents-claimants are entitled to the following compensation:-

Particulars	**Assessed by the Tribunal (in ₹)**	**Re-assessed by the High Court (in ₹)**
Income assessed	5000/-	6247.75 (rounded off to ₹6250/-)
Add:Future Prospects	50% of 5000=2500/-	40% of 6250=2500/-
Deductions	$1/4^{th}$ of 7500=1875/-	$1/4^{th}$ of 8750=2187.50 (rounded off to ₹2187/-)
Total Income	5625/-	6563/-
Multiplier	15	15
Dependency	5625 x 12 x 15= 10,12,500/-	6563 x 12 x 15 = 11,81,340/-
Loss of Spousal Consortium	1,00,000/-	40,000/-
Loss of Love & Affection	1,00,000/-	NIL
Funeral Expenses	25,000/-	15,000/-
Loss of Estate	NIL	15,000/-
Total compensation	**12,37,500/-**	**12,51,340/-**
Rate of Interest	9%	9%

[9] In the circumstances, instead of there being reduction in compensation, there works out an increase in the compensation payable. Accordingly, in view of the decision of Hon'ble the Supreme Court in '***Ranjana Prakash and others*** *versus* ***Divisional Manager and another***', *2011 (14) SCC 639*, the appeal filed by the Insurance Company is **dismissed**.

(B.S. WALIA)
JUDGE

March 26, 2019
'Rajneesh'

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