IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.9459 of 2014 (O&M)
Date of Decision:18.03.2019

Gurmeet Kaur. ....**Appellant**

VERSUS

Ramesh Kumar alias Leela and others. ...**Respondents**

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

Present: Mr. Anil Kumar Garg, Advocate for the appellant.

Mr. Dheeraj Narula, Advocate for Mr. Navin Kapur, Advocate for respondent No.3-Insurance Company.

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B.S. WALIA, JUDGE (ORAL).,

1. Appeal has been filed by the mother of Soni Singh who died in a motor vehicular accident on 14.01.2013. Prayer is for enhancement of compensation of ₹5,75,000/- awarded by the learned Motor Accidents Claims Tribunal, Sangrur(hereafter referred to as 'the Tribunal).

2. Learned counsel contends that the appeal is liable to be allowed, award modified, compensation payable enhanced by taking into account 40% of the established income of the deceased towards future prospects since the income of the deceased was below the taxable limit. Secondly, by award of ₹15,000/- on account of loss of estate and ₹15,000/- on account of funeral expenses besides by taking into account the income of the deceased as ₹5200/- per month as unskilled labourer as per notification issued under the Minimum Wages Act for the relevant period instead of notional income of ₹5,000/- per month as assessed by the learned Tribunal. Learned counsel

further contends that interest awarded @ 6% was on the lower side and the same was liable to be enhanced to 9% per month. Photocopy of the notification showing minimum wages payable to an unskilled worker during the relevant period in the State of Punjab at ₹5200/- per month duly signed by learned counsel for the appellant is taken on record. Copy supplied to learned counsel for the respondent who does not dispute that ₹5200/- per month was payable as minimum wages to the deceased in view of notification Mark ‘A’.

3. Learned counsel for respondent No.3-Insurance Company also does not dispute the fact that the income of the deceased was below the taxable limit. Learned counsel also does not dispute taking into account 40% of the established income of the deceased towards future prospects nor for that matter that the appellant is entitled to ₹15,000/- on account of funeral expenses as also ₹15,000/- on account of loss of estate. However, learned counsel contends that ₹25,000/- awarded on account of loss of love and affection is not payable on account of there being no head as such in terms of decision of Hon'ble the Supreme Court in **National Insurance Company Limited vs Pranay Sethi and others-2017(4) RCR (Civil) 1009.**

4. I have considered the submissions of learned counsel for the parties.

5. Admittedly, the deceased was 18 ½ years of age. The learned Tribunal took into account the income of the deceased as ₹5,000/- per month. In the absence of there being any evidence on record of the deceased working as a Barber except for the bald statement of the mother of the deceased, notional income of the deceased is taken as that of an unskilled labourer i.e ₹5200/- per month. Since the deceased was less than 40 years of age and was

self employed, as per paragraph No.61(iv) of the decision in **Pranay Sethi's** case (supra), 40% of his established income is liable to be taken into account towards future prospects while computing the compensation payable since admittedly, the income of the deceased was below the taxable limit.

6. Further, as per paragraph No.61(viii) of the decision in **Pranay Sethi's** case (supra), as against ₹10,000/- on account of funeral expenses, the appellant is held entitled to award of ₹15,000/- on account of funeral expenses besides, ₹15,000/- on account of loss of estate. However, no sum is payable on account of loss of love and affection. As per decision of a Coordinate Bench of this Court in **Rishav Saini versus Shammy and others 2019 (1) RCR (Civil) 424**, rate of interest was awarded @ 7.5% per annum in case pertaining to an accident dated 10.6.2013. Since the accident in the instant case is dated 14.01.2013 therefore, I am of the view that interest payable be enhanced from 6% per annum to 7.5.% per annum.

7. Accordingly, in the light of the position as noted above, the appellant is held entitled to the following compensation:

Sr. No.	**Head**	**Amount assessed by Tribunal in ₹**	**Amount assessed by this Court in ₹**
1	Monthly Income	5,000/-	5,200/-
2	Future prospects	Nil	40% of 5200/-=2080/-
3	Deduction towards personal expenses of deceased.	50% of 5000/-	50% of 7280/-
4	Multiplier applied	18	18
5	Compensation awarded	2500x12x18=5, 40,000/-	3640x12x18=7,86,240/-
6	Loss of love and affection	25,000/-	Nil
7	Funeral expenses	10,000/-	15000/-
8	Loss of estate	Nil	15,000/-
9	Total	5,75,000/-	8,16,240/-

8. Accordingly, in the light of the position as noted above, as against compensation of ₹5,75,000/- awarded by the learned Tribunal along with interest @ 6% per annum w.e.f. the date of claim petition till date of payment, the appellant is held entitled to award of compensation of **₹8,16,240/-** along with interest @ 7.5% per annum w.e.f. the date of claim petition till date of payment less amount, if any, already paid.

9. Accordingly, appeal is allowed. Award dated 11.07.2014 passed by the learned Tribunal, Sangrur is modified to the extent as noted above.

(B.S. WALIA)
JUDGE

March 18, 2019
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No