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

FAO No.7919 of 2015
Date of decision: 30.01.2019

Nirmala Devi and others. ….. Appellants

Versus

Sukhwinder Kumar @ Sukhwinder Singh and Ors. ….. Respondents

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

Present: Mr. Sudhir Rana, Advocate for
Mr. KP Singh, Advocate for the appellant.

None for respondent No.1 & 2.

Mr. Paul S. Saini, Advocate and Mr. Vipul Sharma, Advocate for respondent No.3 –Insurance Company.

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B.S. WALIA, J. (ORAL)

[1] Appeal has been filed by the widow and three children of Ram Parkash who died in a motor vehicular accident on 02.11.2013.

[2] Prayer is for enhancement of compensation of ₹ 6,88,928/- awarded by the learned Motor Accidents Claims Tribunal, Ambala (hereinafter referred to as 'the Tribunal') by awarding compensation on account of future prospects besides appropriate compensation under conventional heads.

[3] The learned Tribunal by taking into account the age of the deceased as 58 years assessed his income as ₹ 8873/- per month and by applying multiplier of 9 and by making deduction of 1/3rd from the income of the deceased towards his personal expenses and further by awarding ₹ 30,000/- to the widow on account of loss of consortium and ₹ 20,000/- on

account of funeral and transportation expenses awarded total compensation of ₹ 6,88,928/-.

[4] Learned counsel for respondent No.3-Insurance Company vehemently opposes the grant of future prospects but the argument is noted to be rejected.

[5] As per paragraph No.61 (iv) of the decision of Hon'ble the Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009** in the case of a government servant between the age of 50 – 60 years, 15% of the established income of the deceased is to be taken into account towards future prospects while computing the compensation payable. Since the deceased was a government servant, and 58 years of age, 15% of the established income of the deceased is to be taken into account towards future prospects while computing compensation payable.

[6] Widow of the deceased was awarded ₹ 30,000/- on account of loss of consortium whereas as per paragraph No.61 (viii) of the decision of Hon'ble the Supreme Court in Pranay Sethi's case (Supra), she is entitled to ₹ 40,000/- on account of loss of spousal consortium and as per paragraph No.8.7 of the decision of Hon'ble the Supreme Court in **Magma General Insurance Co. Ltd. v. Nanu Ram @ Chuhru Ram and others, 2018 (4) RCR (Civil) 333**, a sum of ₹ 40,000/- is payable to each child on account of loss of parental consortium. Since, the deceased left behind three children, therefore, apart from sum of ₹ 40,000/- payable to the widow of the deceased on account of loss of spousal consortium, ₹ 1,20,000/- is payable to the three children on account of loss of parental consortium.

However, in view of subsequent decision of Hon'ble the Supreme Court in **Vimla Devi and others v. National Insurance Company**

Ltd., 2019 (1) R.C.R. (Civil) 86, award of compensation on account of loss of spousal/parental consortium in the case of widow and two minor children was restricted to ₹ 1,00,000/-.

In the light of the position as noted above, compensation on account of loss of spousal and parental consortium to the widow and three children of the deceased is restricted to ₹ 1,00,000/-.

[7] A sum of ₹ 20,000/- was payable on account of funeral and transportation expenses but no amount was paid on account of loss of estate, whereas as per paragraph No.61 (viii) of the decision in Pranay Sethi's case (Supra), ₹ 15,000/- only is payable on account of funeral expenses while like amount is payable on account of loss of estate.

Accordingly, the appellants are held entitled to ₹ 15,000/- on account of funeral expenses and ₹ 15,000/- on account of loss of estate.

[8] 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	₹ 8873/-	₹ 8873/-
2.	Future Prospects	Nil	15% of ₹ 8873/- = ₹ 1330.95/- (rounded off ₹ 1331/-)
3.	Total Income Assessed	₹ 8873/-	₹ 8873/- + ₹ 1331/- = ₹ 10,204/-
4.	Multiplier applied	9	9
5.	Deduction (towards personal expenses of deceased)	1/3rd of ₹ 8873/- = ₹ 2957	1/3rd of ₹ 10,204/- = ₹ 3401/-

6.	Dependency (Annual)	(₹ 8873/- - ₹ 2957/-) = ₹ 5916/- (per month) and (₹ 5916/- x 12) = ₹ 70,992/- (Annually)	(₹ 10,204/- - ₹ 3401/-) = ₹ 6803/- (per month) and (₹ 6803/- x 12) = ₹ 81,636/- (Annually)
7.	Compensation awarded by applying multiplier	₹ 70,992/- x 9 = ₹ 6,38,928/-	₹ 81,636/- x 9 = ₹ 7, 34,724/-
8.	Loss of consortium	₹ 30,000/- (widow only)	₹ 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 decision of Hon'ble the Supreme Court in Vimla Devi's case.
9.	Funeral Expenses	₹ 20,000/-	₹ 15,000/-
10.	Loss of Estate	NIL	₹ 15,000/-
11.	Rate of interest	7.5% per annum	7.5% per annum
Total		₹ 6,88,928/-	**₹ 8,64,724/-**

[9] Accordingly, as against compensation of ₹ 6,88,928/- awarded by the Tribunal, the appellants are held entitled to compensation of ₹ 8,64,724/- 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 children of the deceased. Apportionment of compensation shall be made in accordance with the ratio stipulated in the award passed by the learned Tribunal.

[10] 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).

[11] Accordingly, appeal is allowed. Award dated 15.04.2015 passed by the learned Tribunal, Ambala is modified to the extent as noted above.

(B.S. WALIA)
JUDGE

30.01.2019
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1. Whether speaking/reasoned : Yes/No.
2. Whether reportable : Yes/No.