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

FAO No.7118 of 2016 (O&M)
Date of decision: 14.02.2019

Darshana Rani and others

….. Appellants

Versus

Mohinder Singh and others

….. Respondents

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

Present: Mr. Gaurav Sharma, Advocate for the appellant.

Mr. Satish Singla, Advocate for respondent Nos.1 and 2.

Mr. Vinod Gupta, 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 two sons and one daughter of Sukhdev Raj who died in a motor vehicular accident on 24.04.2015.

[2] Prayer is for enhancement of compensation of ₹ 7,73,000/- awarded by the learned Motor Accidents Claims Tribunal, Barnala (hereinafter referred to as 'the Tribunal') to the appellants.

[3] Learned counsel for the appellants contended that the appeal was liable to be allowed, award modified, compensation payable enhanced inter alia on the ground that despite entitlement of addition of 10% of the established income of the deceased minus the tax component towards future

prospects while working out compensation payable, the same had not been done. Secondly, deduction was wrongly made @ 50% of the income of the deceased towards the personal expenses of the deceased as against requirement of making deduction @ 1/3rd of the income in view of paragraph No.14 of the decision of Hon'ble the Supreme Court in **Sarla Verma v. Delhi Transport Corporation, 2009 ACJ 1298,** since deceased left behind 3 dependents. Besides, the compensation payable on account of loss of spousal consortium and parental consortium as also funeral expenses and loss of estate was liable to be awarded at the rate of ₹ 1,30,000/- in aggregate in the light of decision of Hon'ble the Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009, Magma General Insurance Co. Ltd. v. Nanu Ram @ Chuhru Ram and others, 2018 (4) RCR (Civil) 333** as well as **Vimla Devi and others v. National Insurance Company Ltd. and others 2019 (1) RCR (Civil) 86** as against ₹ 1,25,000/- awarded by the learned Tribunal.

[4] Learned counsel for respondents fairly do not oppose the claim of the appellants.

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

[6] Admittedly, the deceased was 58 years of age. The learned Tribunal took into account the income of the deceased as ₹ 1,50,000/- per annum, applied multiplier of 9 and by making deduction of 50% from the income of the deceased towards his personal expenses, besides, by awarding ₹ 1,00,000/- on account of loss of consortium and ₹ 25,000/- on account of funeral expenses awarded total compensation of ₹ 7,73,000/- along with interest @ 9% per annum.

[7] As paragraph No.61 (iv) of the decision of Hon'ble the Supreme Court in Pranay Sethi's case (Supra) where the deceased was self-employed and between the age group of 50 to 60 years, 10% of the established income minus tax component is to be taken into account towards future prospects while computing the compensation.

Since, in the instant case, the deceased was 58 years of age and was self-employed, therefore, 10% of the established income minus tax component is to be taken into account towards his future prospects while computing the compensation payable.

[8] 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 and ₹ 15,000/- on account of loss of estate.

According, a sum of ₹ 25,000/- awarded on account of funeral expenses is scaled-down to ₹ 15,000/- and like amount is awarded on account of loss of estate.

[9] Likewise, the widow of the deceased is entitled to ₹ 40,000/- on account of loss of spousal consortium in accordance with paragraph No.61 (viii) of the decision in Pranay Sethi's case (Supra) whereas 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 of the children of the deceased 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 children on account of loss of parental

consortium. Thus, in totality the widow and three children of the deceased are entitled to award of compensation of ₹ 1,60,000/-.

[10] Faced with the aforementioned position, learned counsel for respondent No.3 – Insurance Company contended that in view of subsequent decision of Hon'ble the Supreme Court in **Vimla Devi and others v. National Insurance Company Ltd. and others, 2019 (1) RCR (Civil) 86,** the 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/-.

Accordingly, in the light of the position as noted above, the 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/-.

[11] Further, as per paragraph No. 14 of the decision of Hon'ble the Supreme Court in Sarla Verma's case (Supra) where number of dependents of the deceased is between 2 to 3, personal expenses of the deceased are to be deducted @ 1/3rd of the income of the deceased.

Since, in the instant case, deceased left behind three dependents, therefore, deduction of personal expenses of the deceased shall be made @ 1/3rd of the income of the deceased while working out compensation payable as against deduction of 50% made by the learned Tribunal.

[12] 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	₹ 1,50,000/- (per annum)	₹ 1,50,000/- (per annum)

		but assessed ₹ 12,000/- per month	
2.	Future Prospects	Nil	10% of ₹ 1,50,000/- = ₹15,000/-
3.	Total Income Assessed	₹ 12,000/- (per month)	₹ 1,50,000/- + ₹ 15,000/- = ₹ 1,65,000/- (Annual)
4.	Multiplier applied	9	9
5.	Deduction (towards personal expenses of deceased)	50% of ₹ 12,000/- ₹ 6,000/-	1/3rd of ₹ 1,65,000/- = ₹ 55,000/-
6.	Dependency (Annual)	₹ 6,000/- x 12 = ₹ 72,000/- (Annually)	(₹ 1,65,000/- - ₹ 55,000/-) = ₹ 1,10,000/-
7.	Compensation awarded by applying multiplier	₹ 72,000/- x 9 = ₹ 6,48,000/-	₹ 1,10,000/- x 9 = ₹ 9,90,000/-
8.	Loss of consortium	₹ 1,00,000/-	₹ 40,000/- (widow) ₹ 40,000/- (to each of the 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.

10.	Funeral Expenses	₹ 25,000/-	₹ 15,000/-
11.	Loss of Estate	NIL	₹ 15,000/-
12.	Rate of interest	9% per annum	9 % per annum
Total		**₹ 7,73,000/-**	**₹ 11,20,000/-**

[18] Accordingly, as against compensation of ₹ 7,73,000/- awarded by the Tribunal, the appellants are held entitled to compensation of **₹ 11,20,000/-**along with interest @ 9 % per annum with effect from the date of claim petition till date of payment, less payment, if any, made earlier

[19] 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).

[20] Accordingly, appeal is allowed by modifying Award dated 30.04.2016 passed by the learned Tribunal to the extent as noted above. Resultantly, all C.Ms. stand disposed of.

(B.S. WALIA)
JUDGE

14.02.2019
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1. Whether speaking/reasoned : Yes/No.
2. Whether reportable : Yes/No.