(219) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.9966 of 2014
Date of decision:22.01.2019

Smt. Urmila and others ….. Appellants

Versus

Sukhbir Singh and others ….. Respondents

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

Present: Mr. Anil Kumar Gahlawat, Advocate for the appellants.
Mr. Amit Kundra, Advocate for respondent No.3-Insurance Company.

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B.S. WALIA, J. (ORAL)

[1] Appeal has been filed by the widow, three minor children and mother of Pawan Singh who died in a motor vehicular accident on the intervening night of 22/23.01.2012. The learned Motor Accident Claims Tribunal, Jhajjar (hereinafter referred to as 'the Tribunal') took into account the age of the deceased as between 30 - 31 years on account of his date of birth being 22.10.1981, assessed his income at ₹ 6000/- per month, applied multiplier of 17, made deduction of $1/4^{th}$ of his income towards his personal expenses, besides, by awarding ₹ 22,000/- on account of loss of consortium, ₹ 25,000/- on account of loss of love and affection and ₹ 25,000/- on account of funeral expenses and transportation charges, awarded total compensation of ₹ 9,90,000/-.

[2] Learned counsel for the appellants contended that the appeal is liable to be allowed, award modified, compensation payable enhanced as

despite entitlement, no amount has been awarded on account of future prospects.

[3] Learned counsel for the appellants further contends that apart from the above, a sum of ₹ 15,000/- is payable on account of loss of estate and ₹ 40,000/- to the widow and each of the children of the deceased on account of loss of spousal/parental consortium.

[4] Per contra, learned counsel for respondent No.3-Insurance Company contends that ₹ 25,000/- awarded on account of loss of love and affection is not awardable, besides, ₹ 25,000/- awarded on account of funeral expenses and transportation charges is liable to be scaled- down to ₹ 15,000/- and that too in respect of funereal expenses only.

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

[6] Admittedly, the age of the deceased was 30-31 years. Accordingly, as per paragraph No. 61 (iv) of the decision in Pranay Sethi's case (Supra), the appellants are held entitled to addition of 40% of the established income of the deceased minus the tax component on account of the deceased being self employed and less than 40 years of age.

[7] Likewise, in accordance with paragraph No.61 (viii) of the decision in Pranay Sethi's case (Supra), the appellants are held entitled to ₹ 15,000/- on account of loss of estate and ₹ 15,000/- on account of funeral expenses. However, no amount is payable on account of loss of love and affection.

[8] In addition to the above, the appellants (i.e. widow and each of the three minor children) are held entitled to award of ₹ 40,000/- on account of loss of spousal / parental consortium respectively in accordance with paragraph No.8.7 of the decision of Hon'ble the Supreme Court in **Magma**

General Insurance Co. Ltd. vs Nanu Ram Alias Chuhru Ram and others, 2018 (4) RCR (Civil) 333. However, 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** which was a case involving a widow and her two children, the award of compensation on account of loss of spousal and parental consortium was restricted to ₹ 1,00,000/-. In the circumstances, in the instant case, compensation on account of loss of spousal and parental consortium is restricted to ₹ 1,00,000/-.

[9] In view 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	₹ 6000/-	₹ 6000/-
2.	Future Prospects	NIL	40% of ₹ 6000/- = ₹ 2400/-
3.	Total Income assessed	₹ 6000/-	(₹ 6000/- + ₹ 2400/-) = ₹ 8400/-
4.	Multiplier applied	17	17
5.	Deduction (towards personal expenses of deceased)	1/4th of ₹ 6000/- = ₹ 1500/-	1/4th of ₹ 8400/- = ₹ 2100/-
6.	Dependency (Annual)	(₹ 6000/- - ₹ 1500/-) = ₹ 4500/- (per month) ₹ 4500/- x 12 = ₹ 54,000/-	(₹ 8400/- - ₹ 2100/-) = ₹ 6300/- (per month) ₹6300/- x 12 = ₹ 75,600/-
7.	Compensation Awarded	₹ 54,000/- x 17 = ₹ 9,18,000/-	₹ 75,600/- x 17 = ₹ 12,85,200/-
8.	Funeral Expenses and transportation charges	₹ 25,000/-	₹ 15,000/- on account of Funeral Expenses only.
9.	Loss of Estate	NIL	₹ 15,000/-
10.	Loss of Love and Affection	₹ 25,000/-	NIL
11.	Loss of Consortium	₹ 22,000/-	₹ 40,000/- (Widow) ₹ 40,000/-(To each of the three minor children of the deceased i.e. ₹ 1,20,000/-)

			Total = **₹ 1,60,000/-**) However, compensation on account of loss of spousal/parental consortium is kept at **₹ 1,00,000/-** in view of decision of Hon'ble the Supreme Court in Vimla Devi's case.
11.	Interest	8%	8%
	TOTAL	₹ 9,90,000/-	**₹ 14,15,200/-**

[10] Accordingly, as against compensation of ₹ 9,90,000/- awarded by the Tribunal, the appellants are held entitled to compensation of **₹ 14,15,200/-** along with interest @ 8 % per annum with effect from the date of claim petition till date of payment, less payment, if any, made earlier.

[11] 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).

[12] The compensation shall be apportioned amongst the appellants in accordance with the ratio stipulated in the award after first making payment of compensation on account of loss of consortium to the widow and three minor children of the deceased.

[13] Accordingly, appeal is allowed by modifying Award dated 31.05.2014 passed by the learned Tribunal, Jhajjar to the extent as noted above.

(B.S. Walia)
Judge

22.01.2019
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No