IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.92 of 2015
Date of decision: 23.01.2019

Meeta Rani @ Renu

..... Appellant

Versus

Deepak Kumar @ Billu & Ors.

..... Respondents

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

Present: Mr. S.K. Kagsar, Advocate for
Mr. Jasbir Mor, Advocate for the appellant.
Mr. R.K. Bishamboo, Advocate for respondent No.3 - Insurance Company.
None for remaining respondents.

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B.S. WALIA, J. (ORAL)

[1] Appeal has been filed by the widow, mother (proforma respondent No.4) and father (proforma respondent No.5) of Rakesh who died in a motor vehicular accident on 11.03.2013. Prayer is for enhancement of compensation of ₹ 7,80,000/- awarded by the learned Motor Accidents Claims Tribunal, Jind (hereinafter referred to as 'the Tribunal').

[2] The learned Tribunal by taking into account the age of the deceased as 26 years, income as unskilled labourer at ₹ 5000/- per month, by applying multiplier of 17 and by making deduction of 1/3rd from the income of the deceased towards his personal expenses and further by awarding ₹ 1,00,000/- on account of loss of consortium to the widow of the deceased awarded total compensation of ₹ 7,80,000/-.

[3] Learned counsel for the appellant contends that the appeal is liable to be allowed, award modified and compensation payable enhanced by

taking the income of the deceased as ₹ 5212.15/- per month in terms of wages payable as per notification dated 01.01.2013 issued by the State of Haryana under the Minimum Wages Act besides by awarding future prospects as also ₹ 15,000/- on account of funeral expenses, ₹ 15,000/- on account of loss of estate and ₹ 40,000/- each to the appellant (i.e. widow), mother (proforma respondent No.4) and father (proforma respondent No.5) of the deceased on account of loss of spousal/filial consortium.

[4] Per contra, learned counsel for the respondent-Insurance Company contended that a sum of ₹ 1,00,000/- awarded to the widow of the deceased on account of loss of consortium was liable to be scaled-down to ₹ 40,000/- in accordance with the decision of Hon'ble the Supreme Court in **National Insurance Company Limited v. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009**, and further that in view of paragraph No.8.7 of the decision of Hon'ble the Supreme Court in **Magma General Insurance Co. Ltd. v. Nanu Ram alias Chuhru Ram and others, 2018 (4) RCR (Civil) 333**, the parents of the deceased were not entitled to loss of filial consortium.

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

[6] Admittedly, the deceased was 26 years of age and self-employed. As per notification issued by the State of Haryana, wages payable to an unskilled labourer under the Minimum Wages Act during the relevant period of time was ₹ 5212.15/- per month. Copy of the notification issued by the State of Haryana under the Minimum Wages Act for the relevant period of time is taken on record as Mark-'A'. Accordingly, the income of the deceased is treated as ₹ 5212/- per month as against ₹ 5000/- taken into account by the learned Tribunal for assessing the compensation payable.

[7] Since the father of the deceased has not been shown to be dependent on the deceased, therefore, deduction from the income of the deceased @ 1/3rd towards his personal expenses is in accordance with law and does not warrant interference.

[8] Likewise, multiplier of 17 applied by the learned Tribunal on account of deceased being 26 years of age, is also correct, and does not warrant interference.

[9] As per paragraph No.61 (iv) of the decision of Hon'ble the Supreme Court in Pranay Sethi's case (Supra), since the deceased was self-employed and was less than 40 years of age, therefore, 40% of his established income minus tax component shall be taken into account towards future prospects while computing the compensation.

[10] Further, as per paragraph No.61 (viii) of the decision of Hon'ble the Supreme Court in Pranay Sethi's case (Supra), the appellant (i.e. widow) and mother (proforma respondent No.4) of the deceased are held entitled to ₹ 15,000/- on account of funeral expenses and ₹ 15,000/- on account of loss of estate. Besides, the widow of the deceased is held entitled to ₹ 40,000/- on account of loss of spousal consortium. However, no compensation is payable to mother (proforma respondent No.4) and father (proforma respondent No.5) on account of loss of filial consortium in view of the decision of Hon'ble the Supreme Court in Magma General Insurance Company Ltd.'s case (Supra).

[11] In view of the position as noted above, the appellant (i.e. widow) and mother (proforma respondent No.4) are held entitled to the following compensation:-

Sr. No.	**Heads**	**Amount assessed by the Tribunal**	**Amount assessed by the Court**

1.	Income	₹ 5000/-	₹ 5212/-
2.	Future Prospects	NIL	40% of ₹ 5212/- = ₹ 2084.8/- (rounded off ₹ 2085/-)
3.	Multiplier applied	17	17
4.	Deduction (towards personal expenses of deceased)	1/3rd of ₹ 5000/- = ₹ 1,666.67/- i.e. 1667/-	1/3rd of ₹ 7297/- = ₹ 2432/-
5.	Dependency (Annual)	(₹ 5000 /-₹ 1667/-= ₹ 3333/- (per month) ₹ 3333/-x 12 = ₹ 39,996/- rounded off to ₹ 40,000/- (per annum)	(₹7297/- - ₹2432/-) = ₹ 4865/- (per month) ₹ 4865/- x 12 = ₹ 58,380/- per annum
6.	Compensation Awarded	₹ 40,000/- x 17 = ₹ 6,80,000/-	₹ 58,380/- x 17 = ₹ 9,92,460/-
7.	Loss of Spousal Consortium	₹ 1,00,000/-	₹ 40,000/-
8.	Loss of Estate	NIL	₹ 15,000/-
9.	Funeral Expenses	NIL	₹ 15,000/-
10.	Interest	7.5% per annum	7.5% per annum
	TOTAL	**₹ 7,80,000/-**	**₹ 10,62,460/-**

[12] Accordingly, as against compensation of ₹ 7,80,000/- awarded by the Tribunal, the claimant/appellant (i.e. widow) and mother (proforma respondent No.4) of the deceased are held entitled to compensation of ₹ 10,62,460/- 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 ₹ 40,000/- on account of loss of spousal consortium to the widow of the deceased.

[13] 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).

[14] Accordingly, appeal is allowed by modifying Award dated 10.09.2014 passed by the learned Tribunal to the extent as noted above.

(B.S. WALIA)
JUDGE

23.01.2019
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1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No