IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.7957 of 2016 (O&M)
Date of Decision : 01.02.2019

Manjit Kaur. **...Appellant**

Versus

Rohit Mahajan & others. **...Respondents**

Coram : Hon'ble Mr. Justice B.S. Walia

Present: Mr. Anil Chawla, Advocate for the appellant.

Ms. Swati Batra, Advocate for respondent Nos.3 and 4.

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B.S. Walia, Judge (Oral)

CM No.26747-CII of 2016

For the reasons as are mentioned in the application, delay of 77 days in late filing of the appeal is condoned.

CM stands disposed of.

FAO No.7957 of 2016

1. Ms. Swati Batra, Advocate, who had earlier put in appearance on behalf of respondent No.4, puts in appearance on behalf of respondent No.3 also.

2. At this stage, learned counsel for the appellant states that respondent No.1 and 2 are not necessary for the adjudication of the case since liability has been imposed on the Insurance Company only, therefore, service of respondent No.1 and 2 be dispensed with.

3. Ordered accordingly.

4. With the consent of counsel for the parties, the case is taken up for hearing.

5. Appeal has been filed by the mother of Prabhdeep Singh who died in a motor vehicular accident on 18.02.2012. Prayer is for enhancement of compensation of ₹5,03,500/- awarded by the learned Motor Accidents Claims Tribunal, Amritsar (hereinafter referred to as 'the Tribunal'), by modification of award and enhancement of compensation awarded by grant of future prospects and appropriate compensation under the conventional heads.

5. The learned Tribunal by taking into account the age of the deceased as 23-24 years treated him as unskilled labourer, applied multiplier of 18, assessed his income as ₹4500/- per month and in view of the deceased being bachelor, made deduction of 50% on account of personal expenses of the deceased and further by awarding ₹10,000/- on account of funeral expenses, ₹2500/- on account of loss of estate and ₹5,000/- on account of loss of consortium, awarded compensation as mentioned above.

6. Learned counsel contends that 40% of the established income of the deceased is liable to be taken into account towards future prospects while computing compensation payable, besides, the appellant is entitled to the award of ₹15,000/- on account of loss of estate, ₹15,000/- on account of funeral expenses and ₹ 40,000/- on account of loss of filial consortium. Learned counsel further contends that interest on compensation awarded is also on the lower side and is liable to be enhanced from 6% per annum to 9% per annum in view of the decision of this Court in Neetu and others vs. Jaswant and others 2016 (2) RCR (Civil) 486.

7. Per contra, learned counsel for respondent No.3 and 4-Insurance Company states that interest awarded @ 6% per annum on the awarded amount is in accordance with law and no enhancement on said count is warranted.

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

9. Deceased was 23-24 years of age and was self employed, therefore, in accordance with paragraph No.61(iv) of the decision of Hon'ble Supreme Court in **National Insurance Company Limited vs Pranay Sethi and others-2017(4) RCR (Civil) 1009**, 40% of the established income of the deceased is to be taken into account towards future prospects while computing the compensation payable as counsel for the parties admit that income of the deceased was not taxable.

10. Further as per paragraph No.61(viii) of the decision in **Pranay Sethi's** case (supra), a sum of ₹15,000/- is payable on account of funeral expenses and like amount on account of loss of estate, besides ₹40,000/- on account of loss of filial consortium as per 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, 2018 (4) RCR (Civil) 333.**

11. Since the accident in the instant case is of 18.02.2012 and a Coordinate Bench in Neetu's case (supra) enhanced interest payable from 6% per annum to 9% per annum in respect of a claim on account of death in an accident dated 08.05.2012, I am of the view that interest payable in the instant case should also be payable @ 9% per annum.

12. 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	4500/-	4500/-
2	Future prospects	Nil	40%=1800/- 4500+1800=6300/-
3	Deduction towards personal expenses of deceased.	50%	50%
4	Multiplier applied	18	18
5	Compensation awarded	2250x12x18=4,86,000/-	3150x12x18=6,80,400/-
6	Loss of filial consortium	5000/-	40,000/-
7	Funeral expenses	10,000/-	15000/-
8	Loss of estate	2500/-	15,000/-
9	Interest	6% per annum	9% per annum
10	Total	5,03,500/-	7,50,400/-

13. Accordingly, in the light of the position as noted above, the appellant is held entitled to the award of compensation of ₹7,50,400/- as against compensation of ₹5,03,500/- awarded by the learned Tribunal along with interest @ 9% per annum with effect from the date of claim petition till date of payment, less amount, if any, already paid.

14. Accordingly, appeal is allowed. Award dated 30.10.2015 passed by the learned MACT, Amritsar is modified to the extent as noted above.

(B.S. Walia)
Judge

February 01, 2019
Ps

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