IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3987 of 2017
Date of decision: 27.03.2019

Krishna Devi and others. ..... Appellants

Versus

Darshan Singh and others. ..... Respondents

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

Present: Mr. Drupad Sangwan, Advocate for
Mr. Rose Gupta, Advocate for the appellants.

Mr. Raman Chawla, 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, four minor children and mother of Balraj who died in a motor vehicular accident on 19.01.2015.

[2] Prayer is for enhancement of compensation of ₹ 12,62,500/- awarded by the learned Motor Accidents Claims Tribunal, Hisar (hereinafter referred to as 'the Tribunal').

[3] Learned counsel for the appellants contends that the appeal is liable to be allowed, award modified and compensation payable enhanced by awarding future prospects which were not granted despite entitlement.

[4] Learned counsel for respondents has not opposed the claim of the appellants for grant of future prospects. However, learned counsel for respondent No.3/Insurance Company contends that a sum of ₹1,00,000/- awarded on account of loss of love and affection, ₹ 1,00,000/- on account of

loss of consortium and loss of estate, besides, ₹ 25,000/- on account of litigation costs and ₹ 25,000/- on account of transportation and funeral ceremony is not admissible and that the widow of the deceased is entitled only to award of ₹ 40,000/- on account of loss of spousal consortium while appellants are entitled to award of ₹ 15,000/- on account of funeral expenses and ₹ 15,000/- on account of loss of estate.

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

[6] Admittedly, the deceased was 38 years of age and his income was assessed at ₹ 7,500/- per month. By applying multiplier of 15 and by making deduction of 1/4th of the income of the deceased towards his personal expenses, besides, by awarding a sum of ₹ 1,00,000/- on account of loss of love and affection, ₹ 1,00,000/- on account of loss of consortium and loss of estate, ₹ 25,000/- on account of litigation costs and ₹ 25,000/- on account of transportation and funeral ceremony, the learned Tribunal awarded compensation of ₹ 12,62,500/-.

[7] Since the deceased was less than 40 years of age, besides, was self-employed, therefore, in view of 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,** 40% of the established income of the deceased minus the tax component is to be taken into account towards future prospects while computing the compensation. Learned Counsel for the parties are in agreement that income of the deceased @ ₹ 7500/- per month was below the taxable limit. Accordingly, 40% of ₹ 7500/- per month is to be taken into account towards future prospects.

[8] Likewise, as per paragraph No.61 (viii) of the decision of Hon'ble the Supreme Court in Pranay Sethi's case (Supra), the widow of the deceased is held entitled to ₹ 40,000/- on account of loss of spousal consortium while appellants are held entitled to ₹ 15,000/- on account of funeral expenses and ₹ 15,000/- on account of loss of estate. However, no amount is payable on account of loss of love and affection and litigation and transportation costs.

[9] 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 (per month)	₹ 7,500/-	₹ 7,500/-
2.	Future Prospects	Nil	40% of ₹ 7,500/- = ₹ 3000/-
3.	Total Income Assessed	₹ 7,500/-	(₹ 7,500/- + ₹ 3000/-) = ₹ 10,500/-
4.	Multiplier applied	15	15
5.	Deduction	1/4th of ₹ 7,500/- ₹ 1875/-	1/4th of ₹ 10,500/- = ₹ 2625/-
6.	Dependency (Annual)	(₹7500/- - ₹1875/-) = ₹ 5625/- x 12 = ₹ 67,500/-	(₹ 10,500/- - ₹ 2625/-) = ₹ 7875/- ₹ 94,500/-
7.	Compensation awarded by applying multiplier	₹ 67,500/- x 15 = ₹ 10,12,500/-	₹ 94,500/- x 15 = ₹ 14,17,500/-
8.	Loss of Consortium & Loss of Estate	₹ 1,00,000/-	₹ 40,000/- (on account of loss of consortium) **AND** ₹ 15,000/- (on account of loss of estate)

9.	Funeral Expenses	₹ 25,000/- (on account of transportation and funeral ceremony)	₹ 15,000/- (only on account of funeral expenses)
10.	Loss of Love and Affection	₹ 1,00,000/-	NIL
11.	Litigation Costs	₹ 25,000/-	NIL
12.	Rate of interest	7.5% per annum	7.5 % per annum
Total		**₹ 12,62,500/-**	**₹ 14,87,500/-**

[10] Accordingly, as against compensation of ₹ 12,62,500/- awarded by the Tribunal, the appellants are held entitled to award of compensation of **₹ 14,87,500/-**along with interest @ 7.5 % per annum with effect from the date of claim petition till date of payment, less payment, if any, already made. Apportionment of the compensation shall be made in accordance with the ratio stipulated in the award passed by the learned Tribunal.

[11] Accordingly, appeal is allowed. Award dated 22.03.2017 passed by the learned Tribunal, Hisar is modified to the extent as noted above.

(B.S. WALIA)
JUDGE

27.03.2019
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1. Whether speaking/reasoned : Yes/No.
2. Whether reportable : Yes/No.