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

CM Nos.1693-94-CII of 2017 in/and
FAO No.540 of 2017

Date of decision: 30.01.2019

Amandeep Kaur and another

….. Appellants

Versus

Mohinder Singh and others

….. Respondents

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

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

Mr. R.K. Bashamboo, Advocate for respondent No.3-Insurance Company.

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B.S. WALIA, J. (ORAL)

CM No.1693-CII of 2017

For the reasons as are mentioned in the application, the same is allowed. Delay of 128 days in late filing of the appeal is condoned subject to all just exceptions.

CMNo.1694-CII of 2017

Allowed as prayed for.

Main Case

[1] Appeal has been filed claiming enhancement of compensation on account of death of Buta Singh who died in a motor vehicular accident on 20.04.2015.

[2] The learned Motor Accidents Claims Tribunal, Barnala (hereinafter referred to as 'the Tribunal') by taking into account the age of the deceased as 33 years, income of the deceased as ₹ 7,000/- per month, multiplier of 16 and by making deduction of 1/3rd from the income of the deceased towards his personal expenses, besides, by awarding ₹ 1,00,000/- on account of loss of consortium to the widow of the deceased and ₹ 25,000/- on account of funeral expenses, awarded total compensation of ₹ 10,21,000/- to the appellants and proforma respondent Nos.4 and 5 (i.e. mother and father of the deceased) who were proforma respondents in the claim petition also.

[3] Learned counsel for the appellants contends that the appeal is liable to be allowed, award modified, compensation payable enhanced by adding 40% of the established income of the deceased for the purpose of working out future prospects while computing the compensation payable, besides, by awarding appropriate compensation under the conventional heads.

[4] Per Contra, learned counsel for respondent No.-3 Insurance Company contended that a sum of ₹ 1,00,000/- awarded to the widow of the deceased on account of loss of spousal consortium was liable to be scaled-down to ₹ 40,000/- and ₹ 25,000/- awarded on account of funeral expenses was also liable to be scaled down to ₹ 15,000/- 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**.

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

[6] Admittedly, the deceased was 33 years old and self-employed. As per 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,** since the deceased was self-employed and was less than 40 years of age, 40% of the established income minus tax component shall be taken into account towards future prospects while computing the compensation.

[7] Likewise, as per paragraph No.61 (viii) of the decision of Hon'ble the Supreme Court in Pranay Sethi's case (Supra), the appellants and mother (proforma respondent No.4) and father (proforma respondent No.5) 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 (i.e. appellant No.1) of the deceased is held entitled to ₹ 40,000/- on account of loss of spousal consortium in accordance with 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 the daughter (i.e. appellant No.2) of the deceased on account of loss of parental consortium. However, no compensation is payable to mother (proforma respondent No.4) and father (proforma respondent No.5) on account of filial consortium in view of the decision of Hon'ble the Supreme Court in Magma General Insurance Company Ltd.'s case (Supra) since the deceased was married.

[8] In the light of the position as noted above, the compensation payable works out as under:-

Sr. No.	**Heads**	**Amount assessed by the Tribunal**	**Amount assessed by the Court**
1.	Income	₹ 7000/-	₹ 7000/-

2.	Future Prospects	Nil	40% of ₹ 7000/- = ₹ 2800/-
3.	Total Income Assessed	₹ 7000/- x 12 = ₹ 84,000/-	₹ 7000/- + ₹ 2800/- = ₹ 9800/-
4.	Multiplier applied	16	16
5.	Deduction (towards personal expenses of deceased)	1/3rd of ₹ 84,000/- = ₹ 28,000/-	1/3rd of ₹ 9800/- = ₹ 3266.66/- (rounded off ₹3267/-)
6.	Dependency (Annual)	(₹ 84,000/- - ₹ 28,000/-) = ₹ 56,000/-	(₹ 9800/- - ₹ 3267/-) = ₹ 6533/- (per month) and (₹ 6533/- x 12) = ₹ 78,396/- (Annually)
7.	Compensation awarded by applying multiplier	₹ 56,000/- x 16 = ₹ 8,96,000/-	₹ 78,396/- x 16 = ₹ 12,54,336/-
8.	Loss of consortium	₹ 1,00,000/-	₹ 40,000/- (widow) ₹ 40,000/- (daughter) Total = ₹ 80,000/-
9.	Funeral Expenses	₹ 25,000/-	₹ 15,000/-
10.	Loss of Estate	NIL	₹ 15,000/-
11.	Rate of interest	9 %	7.5 %
	Total	₹ 10,21,000/-	₹ 13,64,336/-

[9] Accordingly, as against compensation of ₹ 10,21,000/- awarded by the Tribunal, the appellants and proforma respondent Nos.4 and 5 (i.e. mother and father of the deceased) are held entitled to compensation of ₹ 13,64,336/- along with interest @ 7.5% per annum on the enhanced amount with effect from the date of claim petition till date of payment, less payment, if any, made earlier after first making payment of compensation on account

of loss of spousal/parental consortium to the widow and daughter of the deceased. Apportionment of the compensation shall be made in accordance with the ratio stipulated in the award passed by the learned Tribunal.

[10] 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).

[11] Accordingly, appeal is allowed by modifying Award dated 30.04.2016 passed by the learned Tribunal to the extent as noted above.

(B.S. WALIA)
JUDGE

30.01.2019
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1. Whether speaking/reasoned : Yes/No.
2. Whether reportable : Yes/No.